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HOUSE BILL 15

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Nathan P. Small and Mimi Stewart

AN ACT

RELATING TO UTILITIES; AMENDING REQUIREMENTS OF THE RENEWABLE PORTFOLIO STANDARD FOR RURAL ELECTRIC COOPERATIVES AND PUBLIC UTILITIES; AMENDING THE DEFINITION OF "RENEWABLE ENERGY" IN THE RURAL ELECTRIC COOPERATIVE ACT; REQUIRING THE HIRING OF APPRENTICES FOR THE CONSTRUCTION OF FACILITIES THAT PRODUCE OR PROVIDE ELECTRICITY.

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

SECTION 1. Section 62-15-34 NMSA 1978 (being Laws 2007, Chapter 4, Section 1, as amended by Laws 2014, Chapter 24, Section 1, and by Laws 2014, Chapter 25, Section 1) is amended to read:

"62-15-34. RENEWABLE PORTFOLIO STANDARD.--

A. Each distribution cooperative organized under the Rural Electric Cooperative Act shall meet the renewable

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1 portfolio standard requirements, as provided in this section,
2 to include renewable energy in its electric energy supply
3 portfolio as demonstrated by its retirement of renewable energy
4 certificates. Requirements and targets of the renewable
5 portfolio standard are as follows:

6 (1) no later than January 1, 2015, renewable
7 energy shall comprise no less than five percent of each
8 distribution cooperative's total retail sales to New Mexico
9 customers;

10 (2) the renewable portfolio standard shall
11 increase by one percent per year thereafter until January 1,
12 2020, at which time the renewable portfolio standard shall be
13 ten percent of the distribution cooperative's total retail
14 sales to New Mexico customers;

15 (3) ~~[the renewable portfolio standard of each~~
16 ~~distribution cooperative shall be diversified as to the type of~~
17 ~~renewable energy resource, taking into consideration the~~
18 ~~overall reliability, availability and dispatch flexibility and~~
19 ~~the cost of the various renewable energy resources made~~
20 ~~available to the distribution cooperative by its suppliers of~~
21 ~~electric power] a distribution cooperative shall have the
22 following targets and requirements for increasing renewable
23 energy in its electric energy supply portfolio by the following
24 percentages of the distribution cooperative's total retail
25 sales to New Mexico:~~

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1 (a) a target of forty percent by January
2 1, 2025;

3 (b) a target of fifty percent, and a
4 requirement of forty percent, by January 1, 2030;

5 (c) a target of eighty percent, and a
6 requirement of fifty percent, by January 1, 2040; provided that
7 this target can be reached without adversely impacting customer
8 rates or service reliability; and

9 (d) a requirement of eighty percent by
10 January 1, 2045; provided that this requirement can be reached
11 without adversely impacting customer rates or service
12 reliability; and

13 (4) renewable energy resources that are in a
14 distribution cooperative's energy supply portfolio on January
15 1, 2008 shall be counted in determining compliance with this
16 section.

17 ~~[B. If a distribution cooperative determines that,~~
18 ~~in any given year, the cost of renewable energy that would need~~
19 ~~to be procured or generated for purposes of compliance with the~~
20 ~~renewable portfolio standard would be greater than the~~
21 ~~reasonable cost threshold, the distribution cooperative shall~~
22 ~~not be required to incur that cost; provided that the existence~~
23 ~~of this condition excusing performance in any given year shall~~
24 ~~not operate to delay any renewable portfolio standard in~~
25 ~~subsequent years. For purposes of the Rural Electric~~

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1 ~~Cooperative Act, "reasonable cost threshold" means an amount~~
2 ~~that shall be no greater than one percent of the distribution~~
3 ~~cooperative's gross receipts from business transacted in New~~
4 ~~Mexico for the preceding calendar year.~~

5 G.] B. By April 30 of each year, a distribution
6 cooperative shall file with the public regulation commission a
7 report on its purchases and generation of renewable energy
8 during the preceding calendar year. The report shall include
9 the cost of the renewable energy resources purchased and
10 generated by the distribution cooperative to meet the renewable
11 portfolio standard, an explanation of steps taken to minimize
12 those costs, including competitive procurement and comparison
13 of the price of electricity from renewable energy resources in
14 the bids received by the distribution cooperative to recent
15 prices for such electricity elsewhere in the southwestern
16 United States, and an annual compliance plan for meeting the
17 renewable portfolio standard for the following three years.

18 C. If, in any given year, a distribution
19 cooperative determines that the average annual levelized cost
20 of renewable energy that would need to be procured or generated
21 for purposes of compliance with the renewable portfolio
22 standard would be greater than sixty dollars (\$60.00) per
23 megawatt-hour at the point of interconnection of the renewable
24 energy resource with the transmission system, adjusted for
25 inflation after 2020, the distribution cooperative shall not be

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1 required to incur that excess cost; provided that the existence
2 of this condition excusing performance in any given year shall
3 not operate to delay compliance with the renewable portfolio
4 standard in subsequent years. The provisions of this
5 subsection do not preclude a distribution cooperative from
6 accepting a project with a cost that would exceed sixty dollars
7 (\$60.00) per megawatt-hour.

8 D. A distribution cooperative shall report to its
9 membership a summary of its purchases and generation of
10 renewable energy during the preceding calendar year."

11 SECTION 2. Section 62-15-37 NMSA 1978 (being Laws 2007,
12 Chapter 4, Section 4, as amended by Laws 2015, Chapter 64,
13 Section 2 and by Laws 2015, Chapter 71, Section 2) is amended
14 to read:

15 "62-15-37. DEFINITIONS--ENERGY EFFICIENCY--RENEWABLE
16 ENERGY.--As used in the Rural Electric Cooperative Act:

17 A. "energy efficiency" means measures, including
18 energy conservation measures, or programs that target consumer
19 behavior, equipment or devices to result in a decrease in
20 consumption of electricity without reducing the amount or
21 quality of energy services;

22 B. "renewable energy" means electric or useful
23 thermal energy:

24 (1) generated by use of low- or zero-emissions
25 generation technology with substantial long-term production

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1 potential; and

2 (2) generated by use of renewable energy
3 resources that may include:

4 (a) solar, wind and geothermal
5 resources;

6 (b) hydropower facilities brought in
7 service on or after July 1, 2007;

8 (c) no greater than the amount of energy
9 from hydropower facilities that were part of an energy supply
10 portfolio prior to July 1, 2007;

11 [~~e~~] (d) fuel cells that are not fossil
12 fueled; and

13 [~~d~~] (e) biomass resources, such as
14 agriculture or animal waste, small diameter timber, salt cedar
15 and other phreatophyte or woody vegetation removed from river
16 basins or watersheds in New Mexico, landfill gas and
17 anaerobically digested waste biomass; but

18 (3) does not include electric energy generated
19 by use of fossil fuel or nuclear energy; and

20 C. "useful thermal energy" means renewable energy
21 delivered from a source that can be metered and that is
22 delivered in the state to an end user in the form of direct
23 heat, steam or hot water or other thermal form that is used for
24 heating, cooling, humidity control, process use or other valid
25 end-use energy requirements and for which fossil fuel or

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1 electricity would otherwise be consumed."

2 SECTION 3. Section 62-16-3 NMSA 1978 (being Laws 2004,
3 Chapter 65, Section 3, as amended) is amended to read:

4 "62-16-3. DEFINITIONS.--As used in the Renewable Energy
5 Act:

6 A. "commission" means the public regulation
7 commission;

8 B. "energy storage" means batteries or other means
9 by which energy can be retained and delivered as electricity
10 for use at a later time;

11 ~~[B.]~~ C. "municipality" means a municipal
12 corporation, organized under the laws of the state, and H class
13 counties;

14 ~~[G.]~~ D. "public utility" means an entity certified
15 by the commission to provide retail electric service in New
16 Mexico pursuant to the Public Utility Act but does not include
17 rural electric cooperatives;

18 ~~[D.]~~ E. "reasonable cost threshold" means ~~[the cost~~
19 ~~established by the commission, above which a public utility~~
20 ~~shall not be required to add renewable energy to its electric~~
21 ~~energy supply portfolio pursuant to the renewable portfolio~~
22 ~~standard] an averaged annual levelized cost of sixty dollars~~
23 ~~(\$60.00) per megawatt-hour at the point of interconnection of~~
24 ~~the renewable energy resource with the transmission system,~~
25 ~~adjusted for inflation after 2020;~~

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1 [~~E.~~] F. "renewable energy" means electric energy
2 [~~(1) generated by use of low- or zero-~~
3 ~~emissions generation technology with substantial long-term~~
4 ~~production potential; and~~

5 (2)] generated by use of renewable energy
6 resources [~~that may include:~~

7 (a) ~~solar, wind and geothermal~~
8 ~~resources;~~

9 (b) ~~hydropower facilities brought in~~
10 ~~service after July 1, 2007;~~

11 (c) ~~fuel cells that are not fossil~~
12 ~~fueled; and~~

13 (d) ~~biomass resources, such as~~
14 ~~agriculture or animal waste, small diameter timber, salt cedar~~
15 ~~and other phreatophyte or woody vegetation removed from river~~
16 ~~basins or watersheds in New Mexico, landfill gas and~~
17 ~~anaerobically digested waste biomass; but~~

18 (3) ~~does not include electric energy generated~~
19 ~~by use of fossil fuel or nuclear energy] and delivered to a~~

20 public utility;
21 [~~F.~~] G. "renewable energy certificate" means a
22 certificate or other record, in a format approved by the
23 commission, that represents all the environmental attributes
24 from one [~~kilowatt-hour~~] megawatt-hour of electricity
25 [~~generation~~] generated from [~~a~~] renewable energy; [~~resource~~]

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1 H. "renewable energy resource" means the following
2 energy resources, with or without energy storage:

- 3 (1) solar, wind and geothermal;
4 (2) hydropower facilities brought in service
5 after July 1, 2007;
6 (3) fuel cells that do not use fossil fuels to
7 create electricity; and
8 (4) landfill gas and anaerobically digested
9 waste biogas;

10 [~~G.~~] I. "renewable portfolio standard" means the
11 minimum percentage of retail sales of electricity by a public
12 utility to electric consumers in New Mexico that is required by
13 the Renewable Energy Act to be [~~supplied by~~] from renewable
14 energy; and

15 [~~H.~~] J. "renewable purchased power agreement" means
16 an agreement that binds an entity generating power from
17 renewable energy resources to provide power at a specified
18 price and binds [~~a public utility to purchase the power at~~] the
19 purchaser to that price."

20 SECTION 4. Section 62-16-4 NMSA 1978 (being Laws 2004,
21 Chapter 65, Section 4, as amended) is amended to read:

22 "62-16-4. RENEWABLE PORTFOLIO STANDARD.--

23 A. A public utility shall meet the renewable
24 portfolio standard requirements, as provided in this section,
25 to include renewable energy in its electric energy supply

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1 portfolio as demonstrated by its retirement of renewable energy
2 certificates; provided that the renewable energy is delivered
3 to the public utility. For public utilities other than rural
4 electric cooperatives and municipalities, requirements of the
5 renewable portfolio standard are:

6 [~~(1) for public utilities other than rural~~
7 ~~electric cooperatives and municipalities:~~

8 ~~(a) no later than January 1, 2006,~~
9 ~~renewable energy shall comprise no less than five percent of~~
10 ~~each public utility's total retail sales to New Mexico~~
11 ~~customers;~~

12 ~~(b) no later than January 1, 2011,~~
13 ~~renewable energy shall comprise no less than ten percent of~~
14 ~~each public utility's total retail sales to New Mexico~~
15 ~~customers;~~

16 ~~(c)]~~ (1) no later than January 1, 2015,
17 renewable energy shall comprise no less than fifteen percent of
18 each public utility's total retail sales to New Mexico
19 customers; ~~and~~

20 ~~(d)]~~ (2) no later than January 1, 2020,
21 renewable energy shall comprise no less than twenty percent of
22 each public utility's total retail sales to New Mexico
23 customers;

24 [~~(2) the renewable portfolio standard~~
25 ~~established by this section shall be reduced, as necessary, to~~

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1 ~~provide for the following specific procurement requirements for~~
2 ~~nongovernmental customers at a single location or facility,~~
3 ~~regardless of the number of meters at that location or~~
4 ~~facility, with consumption exceeding ten million kilowatt-hours~~
5 ~~per year. On and after January 1, 2006, the kilowatt-hours of~~
6 ~~renewable energy procured for these customers shall be limited~~
7 ~~so that the additional cost of the renewable portfolio standard~~
8 ~~to each customer does not exceed the lower of one percent of~~
9 ~~that customer's annual electric charges or forty-nine thousand~~
10 ~~dollars (\$49,000). This procurement limit criterion shall~~
11 ~~increase by one-fifth percent or ten thousand dollars (\$10,000)~~
12 ~~per year until January 1, 2011, when the procurement limit~~
13 ~~criterion shall remain fixed at the lower of two percent of~~
14 ~~that customer's annual electric charges or ninety-nine thousand~~
15 ~~dollars (\$99,000). After January 1, 2012, the commission may~~
16 ~~adjust the ninety-nine-thousand-dollar (\$99,000) limit for~~
17 ~~inflation. Nothing contained in this paragraph shall be~~
18 ~~construed as affecting a public utility's right to recover all~~
19 ~~reasonable costs of complying with the renewable portfolio~~
20 ~~standard, pursuant to Section 62-16-6 NMSA 1978. The~~
21 ~~commission may authorize deferred recovery of the costs of~~
22 ~~complying with the renewable portfolio standard, including~~
23 ~~carrying charges;]~~

24 (3) no later than January 1, 2030, renewable
25 energy shall comprise no less than fifty percent of each public

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1 utility's total retail sales to New Mexico customers; and

2 (4) no later than January 1, 2040, renewable
3 energy resources shall supply no less than eighty percent of
4 all retail sales of electricity in New Mexico; provided that
5 this requirement can be reached without adversely impacting
6 customer rates or service reliability.

7 ~~(3)~~ B. Any customer that is a political
8 subdivision of the state, or any educational institution
9 designated in Article 12, Section 11 of the constitution of New
10 Mexico with an enrollment of twenty-four thousand students or
11 more during the fall semester on its main campus, with
12 consumption exceeding twenty ~~million kilowatt-hours~~ thousand
13 megawatt-hours per year at any single location or facility and
14 that owns facilities that produce renewable energy ~~[generation]~~
15 or hosts such facilities through a renewable purchased power
16 agreement is exempt from all charges by the utility for
17 ~~[renewable energy procurements in a year]~~ fuel and power
18 purchases of one year or less, regardless of the number of
19 customer locations or meters on the system, if that customer
20 certifies to the state auditor and notifies the commission and
21 its serving electric utility that it will ~~[expend two and one-~~
22 ~~half percent of that year's annual electricity charges to~~
23 ~~continue to]~~ develop within twenty-four months customer-owned
24 or customer-hosted facilities that generate renewable energy
25 ~~[generation]~~ sufficient to meet the percentages required by

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1 Subsection A of this section for the combined total energy
2 consumption of all of its customer locations and meters. That
3 customer shall also certify that it will retire all renewable
4 energy certificates associated with the ~~[energy produced from~~
5 ~~that expenditure;~~

6 ~~(4) the renewable portfolio shall be~~
7 ~~diversified as to the type of renewable energy resource, taking~~
8 ~~into consideration the overall reliability, availability,~~
9 ~~dispatch flexibility and cost of the various renewable energy~~
10 ~~resources made available by suppliers and generators;]~~
11 renewable energy produced by those facilities.

12 ~~[(5)]~~ C. Upon a ~~[commission]~~ motion or application
13 by a public utility or any other person, the commission shall
14 open a docket to develop and provide ~~[appropriate performance-~~
15 ~~based]~~ financial or other incentives to encourage public
16 utilities to produce or acquire renewable energy ~~[supplies]~~
17 that ~~[exceed]~~ exceeds the applicable annual renewable portfolio
18 standard set forth in this section. ~~[The commission shall~~
19 ~~initiate rules by June 1, 2008 to implement this subsection;~~
20 and

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

25 ~~B.]~~ D. If, in any given year, a public utility

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1 ~~[finds]~~ determines that ~~[in any given year]~~ the average annual
2 levelized 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 excess cost; provided that the existence
8 of this condition excusing performance in any given year shall
9 not operate to delay ~~[the annual increases in]~~ compliance with
10 the renewable portfolio standard in subsequent years. The
11 provisions of this subsection do not preclude a public utility
12 from accepting a project with a cost that would exceed the
13 reasonable cost threshold. When a public utility can generate
14 or procure renewable energy at or below the reasonable cost
15 threshold, it shall be required to ~~[add renewable energy~~
16 ~~resources]~~ do so to the extent necessary to meet the applicable
17 renewable portfolio standard ~~[applicable in the year when the~~
18 ~~renewable energy resources are being added.~~

19 ~~G. By December 31, 2004, the commission shall~~
20 ~~establish, after notice and hearing, the reasonable cost~~
21 ~~threshold above which level a public utility shall not be~~
22 ~~required to add renewable energy to its electric energy supply~~
23 ~~portfolio pursuant to the renewable portfolio standard. The~~
24 ~~commission may thereafter modify the reasonable cost threshold~~
25 ~~as changing circumstances warrant, after notice and hearing.~~

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1 ~~In establishing and modifying the reasonable cost threshold,~~
2 ~~the commission shall take into account:~~

3 ~~(1) the price of renewable energy at the point~~
4 ~~of sale to the public utility;~~

5 ~~(2) the transmission and interconnection costs~~
6 ~~required for the delivery of renewable energy to retail~~
7 ~~customers;~~

8 ~~(3) the impact of the cost for renewable~~
9 ~~energy on overall retail customer rates;~~

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

14 ~~(5) other factors, including public benefits,~~
15 ~~that the commission deems relevant; provided that nothing in~~
16 ~~the Renewable Energy Act shall be construed to permit~~
17 ~~regulation by the commission of the production or sale price at~~
18 ~~the point of production of the renewable energy] and shall not~~
19 ~~be precluded from exceeding the standard.~~

20 ~~[D.]~~ E. By September 1, 2007 ~~[and July 1 of each~~
21 ~~year thereafter until 2022, and thereafter as determined~~
22 ~~necessary by the commission] and until June 30, 2020, a public
23 utility shall file a report to the commission on its
24 procurement and generation of renewable energy during the prior
25 calendar year and a procurement plan that includes:~~

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

4 (2) testimony and exhibits that demonstrate
5 that the proposed procurement is reasonable as to its terms and
6 conditions considering price, availability, [~~dispatchability~~]
7 reliability, any renewable energy certificate values and
8 diversity of the renewable energy resource; or

9 (3) demonstration that the plan is otherwise
10 in the public interest.

11 F. By July 1, 2020, and each July 1 thereafter, a
12 public utility shall file a report to the commission on the
13 public utility's procurement and generation of renewable energy
14 since the last report and a procurement plan that includes:

15 (1) the cost of procurement for new renewable
16 energy required to comply with the renewable portfolio
17 standard;

18 (2) the capital, operating and fuel costs on a
19 per-megawatt-hour basis during the preceding calendar year of
20 each nonrenewable generation resource rate-based by the
21 utility, or dedicated to the utility through a power purchase
22 agreement of one year or longer, and the nonrenewable
23 generation resources' carbon dioxide emissions on a per-
24 megawatt-hour basis during that same year;

25 (3) testimony and exhibits that demonstrate

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1 that the proposed procurement:

2 (a) was the result of a competitive
3 solicitation;

4 (b) has a cost that is reasonable as
5 evidenced by a comprehensive comparison of the price of
6 electricity from renewable energy resources in the bids
7 received by the public utility to recent prices for comparable
8 energy resources elsewhere in the southwestern United States;
9 and

10 (c) is in the public interest,
11 considering factors such as overall cost and economic
12 development opportunities; and

13 (4) strategies used to minimize costs of
14 renewable energy integration, including location, diversity,
15 balancing area activity, demand-side management and load
16 management.

17 ~~[E-]~~ G. The commission shall approve or modify a
18 public utility's [~~procurement or transitional~~] procurement plan
19 within ninety days and may approve the plan without a hearing,
20 unless a protest is filed that demonstrates to the commission's
21 reasonable satisfaction that a hearing is necessary. The
22 commission may modify a plan after notice and hearing. The
23 commission may, for good cause, extend the time to approve a
24 procurement plan for an additional ninety days. If the
25 commission does not act within the ninety-day period, the

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1 procurement plan is deemed approved.

2 ~~[F.]~~ H. The commission may reject a ~~[procurement or~~
3 ~~transitional]~~ procurement plan if ~~[it]~~, within forty days of
4 filing, the commission finds that the plan does not contain the
5 required information and, upon the rejection, ~~[may suspend the~~
6 ~~public utility's obligation to procure additional resources~~
7 ~~for]~~ shall provide the public utility the time necessary to
8 file a revised plan; provided that the total amount of
9 renewable energy required to be procured by the public utility
10 shall not change.

11 ~~[G. A public utility may file a transitional~~
12 ~~procurement plan requesting that the commission determine that~~
13 ~~the costs of renewable energy resources that the public utility~~
14 ~~has committed to, or may commit to, prior to the commission's~~
15 ~~establishing a reasonable cost threshold, are reasonable and~~
16 ~~recoverable pursuant to Section 62-16-6 NMSA 1978. The~~
17 ~~requirements of annual procurement plan filings shall be~~
18 ~~applicable to any transitional procurement plan filing pursuant~~
19 ~~to this section.~~

20 ~~H. The commission shall determine if it is in the~~
21 ~~public interest for the commission to provide appropriate~~
22 ~~performance-based financial or other incentives to encourage~~
23 ~~public utilities to acquire renewable energy supplies in~~
24 ~~amounts that exceed the requirements of the renewable portfolio~~
25 ~~standard.]"~~

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1 SECTION 5. Section 62-16-5 NMSA 1978 (being Laws 2004,
2 Chapter 65, Section 5, as amended) is amended to read:

3 "62-16-5. RENEWABLE ENERGY CERTIFICATES--COMMISSION
4 DUTIES.--The commission shall establish:

5 A. a system of renewable energy certificates that
6 can be used by a public utility to establish compliance with
7 the renewable portfolio standard and that may include
8 certificates that are monitored, accounted for or transferred
9 by or through a regional system or trading program for any
10 region in which a public utility is located [~~The kilowatt-hour~~
11 ~~value of renewable energy certificates may be varied by~~
12 ~~renewable energy resource or technology; provided that each~~
13 ~~renewable energy certificate shall have a minimum value of one~~
14 ~~kilowatt-hour of renewable energy represented by the~~
15 ~~certificate for purposes of compliance with the renewable~~
16 ~~portfolio standard]; and~~

17 B. requirements and procedures concerning renewable
18 energy certificates that include [~~the~~] provisions that:

19 (1) renewable energy certificates:

20 (a) are owned by the generator of the
21 renewable energy unless: 1) the renewable energy certificates
22 are transferred to the purchaser of the [~~energy~~] electricity
23 through specific agreement with the generator; 2) the generator
24 is a qualifying facility, as defined by the federal Public
25 Utility Regulatory Policies Act of 1978, in which case the

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1 renewable energy certificates are owned by the public utility
2 purchaser of the renewable energy [~~unless retained by the~~
3 ~~generator through specific agreement with the public utility~~
4 ~~purchaser of the energy~~]; or 3) a contract for the purchase of
5 renewable energy is in effect prior to [~~January 1, 2004~~] July
6 1, 2019, in which case the renewable energy certificates are
7 owned by the purchaser of the [~~energy~~] electricity for the term
8 of such contract, unless otherwise agreed to in a contract
9 approved by the commission;

10 (b) may be traded, sold or otherwise
11 transferred by their owner [~~to any other party; provided that~~
12 ~~the transfers and use of the certificate by a public utility~~
13 ~~for compliance with the renewable energy portfolio standard~~
14 ~~shall require the electric energy represented by the~~
15 ~~certificate to be contracted for delivery, or consumed or~~
16 ~~generated by an end-use customer of the public utility in New~~
17 ~~Mexico unless the commission determines that there is a~~
18 ~~national or regional market for exchanging renewable energy~~
19 ~~certificates~~] unless the certificates are from a rate-based
20 public utility plant, in which case the entirety of the
21 renewable energy certificates from that plant shall be retired
22 by the utility on behalf of itself or its customers. Any
23 contract to purchase renewable energy entered into by a public
24 utility on or after July 1, 2019 shall include conveyance to
25 the purchasing utility of all renewable energy certificates,

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1 and the entirety of those certificates shall be retired by that
2 utility on behalf of itself or its customers or subsequently
3 transferred to a retail customer for retirement under a
4 voluntary program for purchasing renewable energy approved by
5 the commission. A utility shall not claim that it is providing
6 renewable energy from generation resources for which it has
7 traded, sold or transferred the associated renewable energy
8 certificates;

9 (c) [~~that~~] are used for the purpose of
10 meeting the renewable portfolio standard shall be registered
11 [~~beginning January 1, 2009~~] with a renewable energy generation
12 information system that is designed to create and track
13 ownership of renewable energy certificates and that, through
14 the use of independently audited generation data, verifies the
15 generation and delivery of electricity associated with each
16 renewable energy certificate and protects against multiple
17 counting of the same renewable energy certificate;

18 [~~(d) that are used once by a public~~
19 ~~utility to satisfy the renewable portfolio standard and are~~
20 ~~retired or that are traded, sold or otherwise transferred by~~
21 ~~the public utility shall not be further used by the public~~
22 ~~utility; and~~

23 [~~(e) that are not used by a public~~
24 ~~utility to satisfy the renewable portfolio standard or that are~~
25 ~~not traded, sold or otherwise transferred by the public~~

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1 utility] and

2 (d) may be carried forward for up to
3 four years from the date of issuance [~~and, if not used by that~~
4 ~~time~~] to establish compliance with the renewable portfolio
5 standard, after which they shall be deemed retired by the
6 public utility; and

7 (2) a public utility shall be responsible for
8 demonstrating that a renewable energy certificate used for
9 compliance with the renewable portfolio standard is derived
10 from eligible renewable energy resources [~~and has not been~~
11 ~~retired, traded, sold or otherwise transferred to another~~
12 ~~party~~]."

13 SECTION 6. Section 62-16-6 NMSA 1978 (being Laws 2004,
14 Chapter 65, Section 6, as amended) is amended to read:

15 "62-16-6. COST RECOVERY FOR RENEWABLE ENERGY.--

16 A. A public utility that procures or generates
17 renewable energy shall recover, through the rate-making
18 process, the reasonable costs of complying with the renewable
19 portfolio standard. Costs that are consistent with commission
20 approval of procurement plans or transitional procurement plans
21 shall be deemed to be reasonable.

22 B. The commission shall not exclude from such cost
23 recovery reasonable interconnection and transmission costs
24 incurred by the public utility in order to deliver renewable
25 energy to retail New Mexico customers.

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1 ~~[G. Upon a commission motion or application by a~~
2 ~~public utility, the commission shall open a docket to provide~~
3 ~~appropriate performance-based financial or other incentives to~~
4 ~~encourage public utilities to acquire renewable energy supplies~~
5 ~~that exceed the applicable annual renewable portfolio standard~~
6 ~~pursuant to the Renewable Energy Act. The commission shall~~
7 ~~initiate rules by June 1, 2008 to implement this subsection.]"~~

8 SECTION 7. Section 62-16-7 NMSA 1978 (being Laws 2004,
9 Chapter 65, Section 7) is amended to read:

10 "62-16-7. COMMISSION--ADDITIONAL POWERS AND DUTIES.--The
11 commission:

12 A. shall adopt rules regarding the renewable
13 portfolio standard, including a provision for public utility
14 records and reports; and

15 B. ~~[may]~~ shall require that a public utility offer
16 its retail customers a voluntary program for purchasing
17 renewable energy that is in addition to ~~[energy]~~ electricity
18 provided by the public utility pursuant to the renewable
19 portfolio standard, under rates and terms that are approved by
20 the commission [and

21 ~~G. may exempt from compliance with the renewable~~
22 ~~portfolio standard a public utility that has an all-~~
23 ~~requirements electric supply contract on July 1, 2004, and the~~
24 ~~contract would not reasonably permit it to procure renewable~~
25 ~~energy for purposes of meeting the renewable portfolio~~

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1 ~~standard. When the electricity supply contract is amended or~~
2 ~~renegotiated, the commission may require that a renewable~~
3 ~~portfolio standard become applicable]."~~

4 SECTION 8. Section 62-16-8 NMSA 1978 (being Laws 2004,
5 Chapter 65, Section 8, as amended) is amended to read:

6 "62-16-8. RURAL ELECTRIC COOPERATIVE--VOLUNTARY
7 TARIFFS.--

8 A. The commission may require that a rural electric
9 cooperative:

10 (1) offer its retail customers a voluntary
11 program for purchasing renewable energy under rates and terms
12 that are approved by the commission [~~but only to the extent~~
13 ~~that the cooperative's suppliers make renewable energy~~
14 ~~available under wholesale power contracts];~~

15 (2) report to the commission the demand for
16 renewable energy pursuant to a voluntary program; and

17 (3) comply with the requirements for the
18 procurement of renewable energy set forth in the Rural Electric
19 Cooperative Act.

20 B. The commission shall establish and amend rules
21 and regulations for the implementation of renewable portfolio
22 standards consistent with the Rural Electric Cooperative Act."

23 SECTION 9. Section 62-16-9 NMSA 1978 (being Laws 2004,
24 Chapter 65, Section 9) is amended to read:

25 "62-16-9. EXISTING RULES.--The commission shall

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1 ~~[establish and amend]~~ promulgate rules ~~[and regulations for the~~
2 ~~implementation of renewable portfolio standards consistent~~
3 ~~with]~~ to implement the provisions of the Renewable Energy Act."

4 SECTION 10. Section 62-16-10 NMSA 1978 (being Laws 2004,
5 Chapter 65, Section 10) is amended to read:

6 "62-16-10. FEDERAL REQUIREMENTS.--Renewable energy
7 procured or generated by a public utility to ~~[meet]~~ comply with
8 a federal ~~[renewable portfolio standard]~~ law, rule or
9 regulation may be used to satisfy the required procurements of
10 the Renewable Energy Act."

11 SECTION 11. A new section of the Renewable Energy Act is
12 enacted to read:

13 "[NEW MATERIAL] REQUIRING THE HIRING OF APPRENTICES FOR
14 THE CONSTRUCTION OF FACILITIES THAT PRODUCE OR PROVIDE
15 ELECTRICITY.--

16 A. The construction of New Mexico facilities that
17 produce or provide electricity for New Mexico retail customers,
18 and that are not located on the customer side of an electricity
19 meter, shall be subject to the requirements provided in
20 Subsection B of this section if the facilities are built as a
21 result of competitive solicitations issued after July 1, 2020.

22 B. Subject to availability of qualified applicants,
23 the construction of facilities that produce or provide
24 electricity for New Mexico retail customers shall employ
25 apprentices from an apprenticeship program during the

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1 construction phase of a project at a minimum level of the
2 following percentages of all persons employed for the project:

3 (1) ten percent for projects for which on-site
4 construction commences beginning January 1, 2020, and prior to
5 January 1, 2024;

6 (2) seventeen and one-half percent for
7 projects for which on-site construction commences beginning
8 January 1, 2024, and prior to January 1, 2026; and

9 (3) twenty-five percent for projects for which
10 on-site construction commences beginning January 1, 2026.

11 C. Apprenticeship programs used for purposes of
12 this section shall encourage diversity among participants,
13 participation by those underrepresented in the industry
14 associated with that apprenticeship program and participation
15 from disadvantaged communities, as determined by the workforce
16 solutions department. The department shall promulgate rules to
17 ensure compliance with this section.

18 D. As used in this section, "apprenticeship
19 program" means an apprenticeship program registered pursuant to
20 the Apprenticeship Assistance Act."