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FISCAL IMPACT REPORT

SPONSOR McQueen ORIGINAL DATE 2/14/19
LAST UPDATED _____ HB 406
SHORT TITLE PRC Transmission Line Jurisdiction SB _____
ANALYST Martinez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY19 | FY20 | FY21 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|---------|---------|----------------------|------------------------------|------------------|
| Total | | \$200.0 | \$200.0 | \$400.0 | Recurring | General Fund |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

HB 406 amends Section 62-9-3 NMSA 1978 of the Public Utility Act (“PUA”) to insert language which grants the Public Regulation Commission (“Commission”) the statutory authority to approve or deny the location of transmission lines that are designed or capable of operation at a nominal voltage of 230 kV or more, including substations and associated facilities. The current statute states that the Commission’s location approval authority is limited to transmission lines of 230 kV or higher being constructed to transmit electricity from a new plant of 300 MW or greater capacity and for sale of electricity to the public.

HB 406 amends Section 62-9-3(B) to limit the grandfathering of additions or modifications to existing transmission lines to only those additions undertaken within existing rights of way. Currently, any additions or modifications to existing transmission lines are exempt.

HB 406 also amends Section 62-9-5(F) to grant the Commission broader authority to deny the location of a transmission line if it determines that the applicant is able to construct a substantially similar line at an alternative location with similar costs and less environmental impact. Currently, the Commission is required to approve the location unless it determines that the location will unduly impair important environmental values.

Finally, HB 406 amends Section 62-16A-4(E) NMSA 1978 to prohibit the Renewal Energy Transmission Authority (“RETA”) from entering into any project for construction of a transmission facility until the project has received location approval from the Commission pursuant to Section 62-9-3 NMSA 1978.

FISCAL IMPLICATIONS

HB 406 carries no appropriation.

The Public Regulation Commission submitted the following:

It is estimated that HB 406 increases workload and the Commission would require two additional Staff engineers full time per year to handle the resulting implications.

It is estimated that an additional \$200 thousand would cover the costs for two FTE, including benefits.

SIGNIFICANT ISSUES

The Public Regulation Commission submitted the following:

HB 406 updates the location control statute to grant the Commission authority to regulate transmission lines of 230 kV or more that are not connected with and transmit electricity from a new generating plant. The bill also requires location approval for additions and modifications to existing lines that occur outside the existing rights of way.

HB 406 broadens the Commission’s authority to deny the location approval of a transmission a transmission line if it determines that the applicant is able to construct a substantially similar line at an alternative location with similar costs and less environmental impact. This would require a complex and time-consuming analysis if several alternative routes and projects were proposed by interveners, affected landowners and the public. This could make the process complicated, contentious and time-consuming. The review of several proposed alternatives also would cause a significant increase in workload for Commission Staff.

HB 406 prohibits RETA from entering into a project for construction of a transmission facility whose location has not been approved by the Commission. The Commission’s location approval process requires notice and, in most case, a hearing. Section 62-9-3.2, Application for right-of-way width determination statute requires that a hearing be held on the application. A transmission line of 230 kV generally requests a right-of-way (“ROW”) width greater than one hundred feet; therefore, a hearing has to be held for most transmission lines subject to location approval. This requirement would place constraints on certain RETA projects that are planned for quick construction and operational readiness.

ADMINISTRATIVE IMPLICATIONS

The Public Regulation Commission submitted the following:

There is a potential for the Commission and RETA to have a dispute over certain projects which RETA may route through certain areas, but the Commission may not approve or may only conditionally approve with certain restrictions.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Public Regulation Commission submitted the following:

The status quo will remain and the location control statute will apply to only transmission lines of 230 kV or more that are associated with new generating plants. The Commission will be required to approve the transmission line unless it found that the line unduly impaired important environmental values. The Commission will not be able to consider alternative projects and locations. Finally, the Commission location approval requirement would not apply to RETA and RETA could enter into construction on projects whose location has not been approved by the Commission.

JM/al