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## FISCAL IMPACT REPORT

SPONSOR Stansbury/Akhil/Small/ Woods/Stewart ORIGINAL DATE 1/31/2020 LAST UPDATED 2/15/2020 HB 233/aHSEIC/aHF1#1

SHORT TITLE Energy Grid Modernization Roadmap SB \_\_\_\_\_

ANALYST Rowberry

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

|              | FY20 | FY21                      | FY22                      | 3 Year Total Cost         | Recurring or Nonrecurring | Fund Affected |
|--------------|------|---------------------------|---------------------------|---------------------------|---------------------------|---------------|
| <b>Total</b> |      | Indeterminate but Minimal | Indeterminate but Minimal | Indeterminate but Minimal | Recurring                 | General Fund  |

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

- LFC Files
- NCSL: Modernizing the Electric Grid (2019)
- NCSL: Cybersecurity and the Electric Grid (2020)

### Responses Received From

- Energy, Minerals and Natural Resources Department (EMNRD)
- Public Regulation Commission (PRC)

### SUMMARY

#### Synopsis of House Floor #1 Amendment

The House Floor #1 amendment to House Bill 233 as amended by the House State Government, Elections and Indian Affairs Committee (HSEIC) adds clarifying language and specifies that a grid modernization project “that only benefits customers of an electric distribution system shall not be recovered from customers served at a level of one hundred ten thousand volts [110,000 volts] or higher from an electric transmission system in New Mexico.”

#### Synopsis of HSEIC Amendment

The House State Government, Elections and Indian Affairs Committee (HSEIC) amendment to House Bill 233 adds language requiring public utilities to include project cost estimates when filing a grid modernization project application with the Public Regulation Commission. The amendment also specifies the application must also follow the process in the Public Utility Act for approval and location review. The amendment also clarifies language related to cost recovery of grid modernization projects. Reasonable recovery costs are amended to be “costs that are no greater than the amount approved by the commission for a utility grid modernization program [...]”

The House State Government, Elections and Indian Affairs Committee (HSEIC) amendment to House Bill 233 is not anticipated to have any new fiscal implications.

Synopsis of Original Bill

House Bill 233 (HB233) directs the Energy, Minerals, and Natural Resources Department (EMNRD) to develop a strategic plan for energy grid modernization and to establish a competitive grant program to support implementation of eligible grid modernization projects. The grant program is to be supported by a new grid modernization grant fund, which will consist of appropriations, gifts, grants, and donations.

Additionally, the bill adds a new section to the Public Utility Act (PUA) allowing Investor Owned Utilities (IOUs) to submit applications to the Public Regulation Commission (PRC) for review and approval of investments into grid modernization projects. For PRC approved grid modernization projects, the bill enables IOUs to recover reasonable project costs through an approved tariff rider or change in base rates.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

**FISCAL IMPLICATIONS**

HB233 does not make an appropriation.

HB233 requires EMNRD staff to create rules pertaining to the grid modernization grant program application procedure, the required qualifications for projects, and the purposes for which the grant may be used. Additionally, EMNRD staff would be responsible for overseeing the grant program and providing annual reporting of the grant program to the Legislative Finance Committee (LFC).

EMNRD currently estimates that enactment of HB233 would have no fiscal impact on the department and current staffing is sufficient for administering and implementing the program and tasks outlined in the bill. EMNRD originally stated the bill would require additional staff resources totaling an estimated \$75 thousand per year for effective administration and implementation of the grant program.

HB233 requires PRC staff to conduct reviews of IOU submitted applications for grid modernization projects and determine the reasonableness of proposed projects as specified in the bill. Additionally, PRC staff would review grid modernization project filings for recovery of costs through tariff riders or changes to base rates. PRC also states that “several projects would require review and filing of applications for certificates of convenience and necessity.”

PRC states that projects related to energy grid modernization coming before the commission are anticipated to increase in the coming years with or without legislation specifically addressing energy grid modernization, and PRC staff workload and need will increase as a result. PRC asserts that enactment of HB233 is likely to accelerate the increase in energy grid modernization projects coming before the commission, as HB233 is likely to generate additional interest among IOUs to pursue energy grid modernization projects.

PRC anticipates needing two additional technical staff members (Public Utility Engineers, range EF) as a result of HB233. PRC also states they will request additional FTEs in their FY22 budget request to meet the commission's growing staff needs for successful and timely administration of programs and duties.

Based on received written communications from EMNRD and PRC on fiscal impacts, HB233 is likely to have a minimal fiscal impact on annual operating budgets.

## **SIGNIFICANT ISSUES**

EMNRD states that to meet the renewable energy policy goals of the Energy Transition Act, the infrastructure of the New Mexico electricity grid requires updating. The department asserts the necessary updates include, but are not limited to, new circuits and transmission lines to access untapped renewable resources, optimization of grid operations to make the system work more efficiently, and adoption of new technologies to increase resiliency, such as energy storage or advanced metering infrastructure, amongst others.

EMNRD expressed that HB233 would support the efforts currently underway in New Mexico to accomplish these grid modernization priorities. EMNRD, with the support of a facilitated workshop of national experts convened by the National Governors' Association, formed a New Mexico Grid Modernization Working Group, which is developing best practices for accomplishing New Mexico's grid modernization goals. The department states that the bill would allow the work of the Grid Modernization Working Group to be expanded and put into action across the state.

PRC identified the following issues:

Section 3.B (3) of the bill requires the Commission to consider, in its approval process of grid modernization projects, several factors including "increasing access to low-income users and users in underserved communities." This requirement does not meet the conventional ratemaking treatment authority of the Commission is contrary to the nondiscrimination provisions of the PUC which does not allow social ratemaking where costs incurred by a certain class of ratepayers may potentially be passed on to others.

Finally, Section 3.C also requires that cost recovery sought through rate revisions or tariff riders to be either approved or suspended with 30-days of initial filing and, if suspended, to approved or denied within 180-days. These deadlines are inconsistent with the corresponding deadlines of 60-days and nine months, respectively, in the certificate of convenience and necessity ("CCN") provision of the PUA found at Subsection B of Section 62-9-1 NMSA 1978 and the location control provision for transmission lines found at Section 62-9-3 NMSA 1978. Applications filed with the Commission under the PUA have a public notice and a public protest period of 60-days. Not allowing an initial 60-day protest filing period (after public notice) conflicts with the provisions of the CCN in Subsection C of Section 62-9-1 NMSA 1978 and the location control statute at Subsection K of Section 62-9-3 NMSA 1978 both of which require a 60-day protest period. It is conceivable that several of the grid modernization projects may require a CCN; and projects that consist of construction of transmission lines and associated facilities may require location approval in addition to a CCN. Unlike Section 3.C of HB233, the CCN provision of the PUA and the location control statute allows the Commission to "extend the deadline for granting approval by an additional

six months for good cause shown.”

The grid modernization grant fund established by the bill is eligible to receive non-state monies, including potential federal grants and private entity contributions.

## **ADMINISTRATIVE IMPLICATIONS**

PRC asserts that enactment of this bill will likely accelerate the rate at which staff take on additional tasks and responsibilities related to energy grid modernization projects. EMNRD states “there will be administrative implications [...] to create new rules and establish an application submission process, and also to effectively manage the program, provide system reviews, and collect data for reporting.” However, EMNRD states that the department is currently adequately staffed and prepared for these additional administrative implications.

## **TECHNICAL ISSUES**

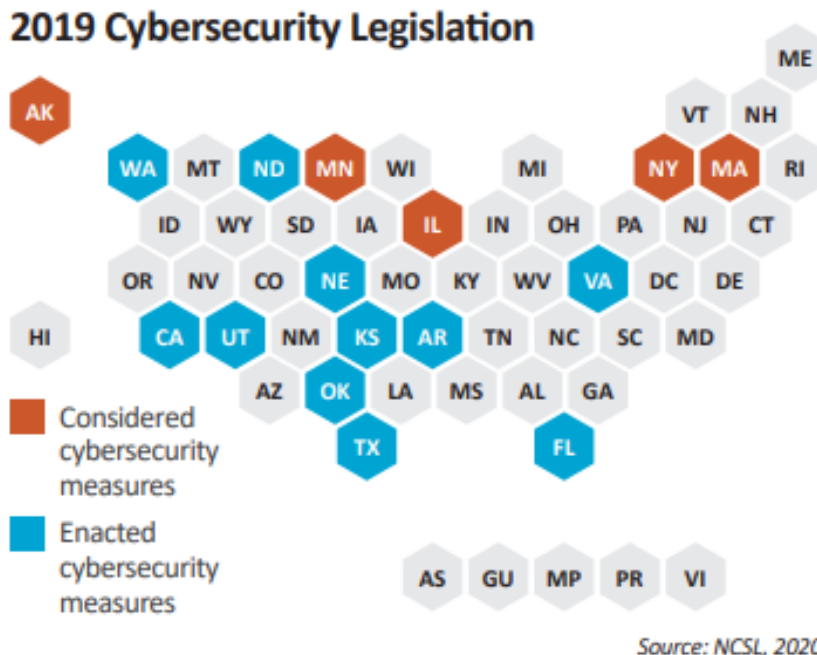
PRC reported the following conflict:

“Section 3.C of HB233, which allows rate revision or tariff riders to be approved within 30-days of filing by an IOU without any provision for public notice and a “protest period” conflicts with the provisions of the PUA found at Subsection C of Section 62-9-1, Subsection D and E of section 62-8-7 and Subsection K of Section 62-9-3 NMSA 1978 which require an initial 60-day protest filing period in addition to notice and hearing prior to approval.”

## **OTHER SUBSTANTIVE ISSUES**

The National Conference of State Legislatures (NCSL) notes in their 2019 “Modernizing the Electric Grid” report, significant infrastructure upgrades will be needed to address aging electric grids and meet the needs of an evolving energy network. There is no clearly defined or universally accepted version of what constitutes a modern grid, but common elements include distributed energy, energy storage, advanced metering and smart devices, microgrids, demand management and energy efficiency, and electric vehicles. While grid modernization is a complex matter with a variety of approaches that can be taken, the report stresses the importance of developing “holistic planning approaches and decision-making frameworks.” A strategic planning document at the state-level can help determine which grid investments are worthwhile and minimize the potential of failed efforts. In recent years, several states, including California, Minnesota, Missouri, New Hampshire, and Washington have enacted legislation supporting broad grid modernization efforts.

In their 2020 report “Cybersecurity and the Electric Grid,” NCSL highlights the growing cyberthreat posed by aging electric grid infrastructure. A successful energy sector attack has the ability to impact transportation systems, water facilities, hospitals, and communication networks. During the 2019 legislative session, at least 16 states considered measures intended to address the cybersecurity of the electric grid and other critical infrastructure. Most of the legislative actions have established state-level cybersecurity task forces and committees, established cybersecurity standards and reporting requirements, expanded state open records exemptions to include cyber vulnerabilities, or directed and authorized governors and state agencies to take certain actions to prepare for and respond to cyber emergencies. The map below indicates which states considered and enacted cybersecurity legislation.



From a regulatory perspective, NCSL notes that the traditional cost-of-service regulatory model in the energy sector was designed during a time when the electric grid was far simpler than it is today. Recent technological improvements and changing consumer demands are challenging the traditional regulatory model. To address these challenges, some states are working to reshape the traditional framework in a way to better align customer needs, utility goals, and state policies. Methods to alter the traditional regulatory approach include revenue decoupling for electric utilities, performance-based regulation, and rate designs for modern grids.

As an example, the Public Utilities Commission of Ohio (PUCO) initiated the PowerForward grid modernization effort. The initiative aimed to explore next generation grid architecture, distribution system planning, electric vehicles, energy storage, distribution system markets, ratemaking and rate design, data analytics, and cybersecurity. In 2016, the PUCO approved a Distribution Modernization Rider for base rates from an IOU which enabled the IOU to collect \$600 million over three years of fund grid modernization efforts.

**AMENDMENTS**

PRC proposes the following amendments to address their concerns that the bill conflicts and contains inconsistencies with current Public Utility Act provisions:

Section 3.B

On page 7, line 15 of Section 3.B, delete “shall” and insert “may”. Amended line 15 would be “...modernization project and as part of that review [~~shall~~] may consider...”

Section 3.C

Proposed amended language for Section 3.C:

C. “A public utility that undertakes grid modernization projects approved pursuant to this section may recover its reasonable costs through an approved tariff rider or in base rates, or

by a combination of the two. Costs that are consistent with commission-approved utility grid modernization projects are presumed to be reasonable, unless otherwise determined by the commission. A change in rates or tariff rider proposed by a public utility to fund approved grid modernization projects shall be processed in accordance with the applicable provisions of section 62-9-1 or 62-8-7 of the public utility act. ~~[go into effect within thirty days after filing, unless suspended by the commission for a period not to exceed one hundred eighty days. If the tariff rider is not approved or suspended within thirty days after filing, it shall be deemed approved as a matter of law. If the commission has not acted to approve or disapprove the tariff rider by the end of the suspension period, it shall be deemed approved as a matter of law.]~~”

JNR/al/sb