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SENATE BILL 194

**55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022**

INTRODUCED BY

George K. Munoz

AN ACT

RELATING TO ELECTRIC UTILITIES; AMENDING DEFINITIONS IN THE  
RURAL ELECTRIC COOPERATIVE ACT AND THE RENEWABLE ENERGY ACT.

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

SECTION 1. Section 62-15-37 NMSA 1978 (being Laws 2007,  
Chapter 4, Section 4, as amended) is amended to read:

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

A. "clean hydrogen electric generation facility"  
means an electric power generation facility located in New  
Mexico that uses one hundred percent hydrogen to generate  
electricity, whose electrical output can be controlled to aid  
in balancing electric supply and demand and emits no more than  
three hundred seventy-five pounds of carbon dioxide equivalent  
per megawatt hour and that:

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1                   (1) provides for the permanent sequestration  
2 of carbon dioxide created in the production of clean hydrogen  
3 by the hydrogen fuel or hydrogen resource generator, either by  
4 the creator of the carbon dioxide or by a purchaser of the  
5 carbon dioxide; and

6                   (2) provides certification that methane gas  
7 produced or purchased for the generation of hydrogen is  
8 responsibly sourced gas;

9                   ~~A.~~ B. "energy efficiency" means measures,  
10 including energy conservation measures, or programs that target  
11 consumer behavior, equipment or devices to result in a decrease  
12 in consumption of electricity without reducing the amount or  
13 quality of energy services;

14                   C. "permanent sequestration of carbon dioxide"  
15 means carbon dioxide injected pursuant to a monitoring and  
16 verification plan approved pursuant to Code of Federal  
17 Regulations Title 40, Chapter 1, Subchapter C, Part 98, Subpart  
18 RR as follows:

19                   (1) prior to January 1, 2030, any source  
20 category defined in Code of Federal Regulations Title 40,  
21 Chapter 1, Subchapter C, Part 98, Subpart RR, Section 98.440;  
22 and

23                   (2) on or after January 1, 2030, any source  
24 category defined in Code of Federal Regulations Title 40,  
25 Chapter 1, Subchapter C, Part 98, Subpart RR, Section 98.440,

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1 Paragraphs (a) and (b), excluding any well or group of wells  
2 where a carbon dioxide stream is being injected in subsurface  
3 geologic formations to enhance the recovery of oil or natural  
4 gas;

5 ~~[B-]~~ D. "renewable energy" means electric energy  
6 generated by use of renewable energy resources and delivered to  
7 a rural electric cooperative;

8 ~~[C-]~~ E. "renewable energy certificate" means a  
9 certificate or other record, in a format approved by the public  
10 regulation commission, that represents all the environmental  
11 attributes from one megawatt-hour of electricity generated from  
12 renewable energy;

13 ~~[D-]~~ F. "renewable energy resource" means electric  
14 or useful thermal energy:

15 (1) generated by use of the following energy  
16 resources, with or without energy storage and delivered to a  
17 rural electric cooperative:

- 18 (a) solar, wind and geothermal;  
19 (b) hydropower facilities brought in  
20 service on or after July 1, 2007;  
21 (c) other hydropower facilities  
22 supplying no greater than the amount of energy from hydropower  
23 facilities that were part of an energy supply portfolio prior  
24 to July 1, 2007;  
25 (d) fuel cells that do not use fossil

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1 fuels to create electricity;

2 (e) biomass resources, limited to  
3 agriculture or animal waste, small diameter timber, not to  
4 exceed eight inches, salt cedar and other phreatophyte or woody  
5 vegetation removed from river basins or watersheds in New  
6 Mexico; provided that these resources are from facilities  
7 certified by the energy, minerals and natural resources  
8 department to: 1) be of appropriate scale to have sustainable  
9 feedstock in the near vicinity; 2) have zero life cycle carbon  
10 emissions; and 3) meet scientifically determined restoration,  
11 sustainability and soil nutrient principles; and

12 (f) landfill gas and anaerobically  
13 digested waste biomass; and

14 (2) does not include electric energy generated  
15 by use of fossil fuel or nuclear energy;

16 G. "responsibly sourced gas" means gas used or  
17 purchased to produce hydrogen that either:

18 (1) meets the standard for methane gas allowed  
19 to be used in hydrogen hub projects as promulgated by the  
20 federal government pursuant to Title 8 of the federal Energy  
21 Policy Act of 2005; or

22 (2) in the absence of a federal standard, is  
23 certified as a responsibly sourced gas by an independent  
24 organization with nationally recognized expertise to provide  
25 such certification and such independent organization and

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1 certification are approved by the department of environment;

2 [E-] H. "useful thermal energy" means renewable  
3 energy delivered from a source that can be metered and that is  
4 delivered in the state to an end user in the form of direct  
5 heat, steam or hot water or other thermal form that is used for  
6 heating, cooling, humidity control, process use or other valid  
7 end-use energy requirements and for which fossil fuel or  
8 electricity would otherwise be consumed;

9 [F-] I. "zero carbon resource" means an electricity  
10 generation resource:

11 (1) that emits no carbon dioxide into the  
12 atmosphere; [E-]

13 (2) that reduces methane emitted into the  
14 atmosphere in an amount equal to no less than one-tenth of the  
15 tons of carbon dioxide emitted into the atmosphere, as a result  
16 of electricity production; or

17 (3) that is a clean hydrogen electric  
18 generation facility; and

19 [G-] J. "zero carbon resource standard" means  
20 providing New Mexico rural electric cooperative retail  
21 customers with electricity generated from one hundred percent  
22 zero carbon resources."

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

25 "62-16-3. DEFINITIONS.--As used in the Renewable Energy  
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1 Act:

2 A. "clean hydrogen electric generation facility"  
3 means an electric power generation facility located in New  
4 Mexico that uses one hundred percent hydrogen to generate  
5 electricity, whose electrical output can be controlled to aid  
6 in balancing electric supply and demand and emits no more than  
7 three hundred seventy-five pounds of carbon dioxide equivalent  
8 per megawatt hour and that:

9 (1) provides for the permanent sequestration  
10 of carbon dioxide created in the production of clean hydrogen  
11 by the hydrogen fuel or hydrogen resource generator, either by  
12 the creator of the carbon dioxide or by a purchaser of the  
13 carbon dioxide; and

14 (2) provides certification that methane gas  
15 produced or purchased for the generation of hydrogen is  
16 responsibly sourced gas;

17 ~~[A.]~~ B. "commission" means the public regulation  
18 commission;

19 ~~[B.]~~ C. "energy storage" means batteries or other  
20 means by which energy can be retained and delivered as  
21 electricity for use at a later time;

22 ~~[C.]~~ D. "municipality" means a municipal  
23 corporation, organized under the laws of the state, and H class  
24 counties;

25 E. "permanent sequestration of carbon dioxide"

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1 means carbon dioxide injected pursuant to a monitoring and  
2 verification plan approved pursuant to Code of Federal  
3 Regulations Title 40, Chapter 1, Subchapter C, Part 98, Subpart  
4 RR as follows:

5 (1) prior to January 1, 2030, any source  
6 category defined in Code of Federal Regulations Title 40,  
7 Chapter 1, Subchapter C, Part 98, Subpart RR, Section 98.440;  
8 and

9 (2) on or after January 1, 2030, any source  
10 category defined in Code of Federal Regulations Title 40,  
11 Chapter 1, Subchapter C, Part 98, Subpart RR, Section 98.440,  
12 Paragraphs (a) and (b), excluding any well or group of wells  
13 where a carbon dioxide stream is being injected in subsurface  
14 geologic formations to enhance the recovery of oil or natural  
15 gas;

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

20 ~~[E.]~~ G. "reasonable cost threshold" means an  
21 average annual levelized cost of sixty dollars (\$60.00) per  
22 megawatt-hour at the point of interconnection of the renewable  
23 energy resource with the transmission system, adjusted for  
24 inflation after 2020;

25 ~~[F.]~~ H. "renewable energy" means electric energy

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1 generated by use of renewable energy resources and delivered to  
2 a public utility;

3 ~~[G.]~~ I. "renewable energy certificate" means a  
4 certificate or other record, in a format approved by the  
5 commission, that represents all the environmental attributes  
6 from one megawatt-hour of electricity generated from renewable  
7 energy;

8 ~~[H.]~~ J. "renewable energy resource" means the  
9 following energy resources, with or without energy storage:

10 (1) solar, wind and geothermal;

11 (2) hydropower facilities brought in service  
12 on or after July 1, 2007;

13 (3) biomass resources, limited to agriculture  
14 or animal waste, small diameter timber, not to exceed eight  
15 inches, salt cedar and other phreatophyte or woody vegetation  
16 removed from river basins or watersheds in New Mexico; provided  
17 that these resources are from facilities certified by the  
18 energy, minerals and natural resources department to:

19 (a) be of appropriate scale to have  
20 sustainable feedstock in the near vicinity;

21 (b) have zero life cycle carbon  
22 emissions; and

23 (c) meet scientifically determined  
24 restoration, sustainability and soil nutrient principles;

25 (4) fuel cells that do not use fossil fuels to

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1 create electricity; and

2 (5) landfill gas and anaerobically digested  
3 waste biogas;

4 [~~F.~~] K. "renewable portfolio standard" means the  
5 minimum percentage of retail sales of electricity by a public  
6 utility to electric consumers in New Mexico that is required by  
7 the Renewable Energy Act to be from renewable energy;

8 [~~J.~~] L. "renewable purchased power agreement" means  
9 an agreement that binds an entity generating power from  
10 renewable energy resources to provide power at a specified  
11 price and binds the purchaser to that price;

12 M. "responsibly sourced gas" means gas used or  
13 purchased to produce hydrogen that either:

14 (1) meets the standard for methane gas allowed  
15 to be used in hydrogen hub projects as promulgated by the  
16 federal government pursuant to Title 8 of the federal Energy  
17 Policy Act of 2005; or

18 (2) in the absence of a federal standard, is  
19 certified as a responsibly sourced gas by a independent  
20 organization with the nationally recognized expertise to  
21 provide such certification and such independent organization  
22 and certification are approved by the department of  
23 environment;

24 [~~K.~~] N. "zero carbon resource" means an electricity  
25 generation resource:

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(1) that emits no carbon dioxide into the atmosphere; ~~[or]~~

(2) that reduces methane emitted into the atmosphere in an amount equal to no less than one-tenth of the tons of carbon dioxide emitted into the atmosphere, as a result of electricity production; or

(3) that is a clean hydrogen electric generation facility; and

~~[E.]~~ 0. "zero carbon resource standard" means providing New Mexico public utility customers with electricity generated from one hundred percent zero carbon resources."