

1 HOUSE BILL 218

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO PUBLIC UTILITIES; REQUIRING CERTAIN PUBLIC  
12 UTILITIES TO PROVIDE AFFORDABLE RATES TO LOW-INCOME RESIDENTIAL  
13 CUSTOMERS; REQUIRING THE PUBLIC REGULATION COMMISSION TO  
14 ESTABLISH CRITERIA FOR AFFORDABLE RATES.  
15

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

17 SECTION 1. Section 62-8-1 NMSA 1978 (being Laws 1941,  
18 Chapter 84, Section 37) is amended to read:

19 "62-8-1. RATES.--

20 A. Every rate made, demanded or received by any  
21 public utility shall be just and reasonable.

22 B. Every public utility providing electric or  
23 natural gas service to residential customers shall offer an  
24 affordable rate for low-income residential customers; provided  
25 that rural electric cooperatives shall not be required to offer

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1 such a rate until their next rate adjustment after July 1,  
2 2023.

3 C. As used in this section:

4 (1) "affordable rate" means a rate for  
5 electric and natural gas utility service designed to prevent an  
6 average low-income customer from paying an unsustainable share  
7 of income toward these services, the design of which shall be  
8 further prescribed by the commission by rule or order and which  
9 may be based solely upon publicly available aggregate income  
10 data for New Mexico residents; and

11 (2) "low-income" means an annual household  
12 adjusted gross income, as defined in the Income Tax Act, equal  
13 to or less than two hundred percent of the current federal  
14 poverty level guidelines published by the United States  
15 department of health and human services, or for the purposes of  
16 an affordable rate offered by a rural electric cooperative,  
17 means an annual household adjusted gross income, as defined in  
18 the Income Tax Act, equal to or less than one hundred fifty  
19 percent of the current federal poverty level guidelines  
20 published by the United States department of health and human  
21 services."

22 SECTION 2. Section 62-8-6 NMSA 1978 (being Laws 1941,  
23 Chapter 84, Section 42, as amended) is amended to read:

24 "62-8-6. DISCRIMINATION.--

25 A. No public utility shall, as to rates or

1 services, make or grant any unreasonable preference or  
2 advantage to any corporation or person within any  
3 classification or subject any corporation or person within any  
4 classification to any unreasonable prejudice or disadvantage.  
5 No public utility shall establish and maintain any unreasonable  
6 differences as to rates of service either as between localities  
7 or as between classes of service.

8 B. Nothing shall prohibit, however, the commission  
9 from approving:

10 (1) economic development rates [~~and~~];

11 (2) rates designed to retain load [~~or from~~  
12 approving]; and

13 (3) energy efficiency programs designed to  
14 reduce the burden of energy costs on low-income customers  
15 pursuant to the Efficient Use of Energy Act.

16 C. Notwithstanding Subsection A of this section, a  
17 public utility may make or grant a reasonable preference or  
18 advantage to low-income residential customers, and the  
19 commission may approve a rate, charge, service, program,  
20 classification or facility that includes such a preference or  
21 advantage. The implementation of such a commission-approved  
22 rate, charge, service, program, classification or facility by a  
23 public utility shall not be deemed to subject any person or  
24 corporation to any prejudice, disadvantage or undue  
25 discrimination."

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1           SECTION 3. A new section of Chapter 62, Article 8 NMSA  
2 1978 is enacted to read:

3           "[NEW MATERIAL] INVESTOR-OWNED PUBLIC UTILITY--AFFORDABLE  
4 RATES FOR LOW-INCOME RESIDENTIAL CUSTOMERS.--

5           A. Each investor-owned public utility shall file  
6 with the commission initial proposed affordable rates for  
7 low-income residential customers no later than January 1, 2024.  
8 The filing shall include information showing that the rates:

9                         (1) are available to all low-income  
10 residential customers; and

11                        (2) meet the definition of "affordable rate"  
12 as set forth in Paragraph (1) of Subsection I of this section.

13           B. Initial proposed affordable rates shall go into  
14 effect thirty days after filing, unless suspended by the  
15 commission for a period not to exceed sixty days. If the  
16 commission has not acted to approve initial affordable rates by  
17 the end of the suspension period, the initial proposed  
18 affordable rates shall be deemed approved as a matter of law.

19           C. Each investor-owned public utility shall file  
20 proposed updated affordable rates, if an update is needed to  
21 maintain affordable rates for low-income residential customers,  
22 for approval in future general rate cases.

23           D. Nothing in this section shall prohibit the  
24 commission from:

25                        (1) approving an affordable rate that is a

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1 flat dollar-amount rate reduction from general residential  
2 rates or a percentage rate reduction from residential rates;  
3 provided that the reduction is calculated to result in an  
4 affordable rate for the average low-income residential  
5 customer;

6 (2) approving affordable rates for low-income  
7 residential customers based on specified tiers of household  
8 income; or

9 (3) authorizing programs that seek to decrease  
10 or eliminate participating customer arrears or increase the  
11 frequency of participating customer payments; provided that  
12 such programs would be designed to increase affordability and  
13 continuity of service for participating customers and to reduce  
14 utility costs associated with customer account collection  
15 activities.

16 E. Each investor-owned public utility shall file  
17 affordable-rate evaluations every three years that measure the  
18 effect of the rates on:

19 (1) the estimated effect on energy burden for  
20 an average participating customer, based on publicly available  
21 income data and the utility's available billing and usage data;

22 (2) service disconnections;

23 (3) frequency of customer payments, utility  
24 collection costs, arrearage and bad debt; and

25 (4) any other relevant criterion that can be

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1 assessed with available data that the commission deems  
2 appropriate.

3 F. The commission shall promulgate rules and issue  
4 orders as necessary to implement, administer and evaluate  
5 affordable rates.

6 G. The commission shall allow an investor-owned  
7 public utility to recover:

8 (1) the reasonable cost of implementing  
9 affordable rates, including administrative costs, evaluation  
10 costs and start-up costs, on a timely basis; and

11 (2) costs incurred because of approved initial  
12 affordable rates in the investor-owned public utility's next  
13 general rate case.

14 H. Investor-owned public utilities may use  
15 information collected or created for the purpose of  
16 administering energy assistance programs to formulate  
17 affordable rates.

18 I. As used in this section:

19 (1) "affordable rate" has the same meaning as  
20 set forth in Paragraph (1) of Subsection C of Section 62-8-1  
21 NMSA 1978;

22 (2) "energy burden" means the percentage of  
23 gross household income spent by a customer on an individual  
24 utility's bills;

25 (3) "investor-owned public utility" means a

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1 public utility subject to regulation by the commission that  
2 provides electric or natural gas service to residential  
3 customers, but "investor-owned public utility" does not mean a  
4 rural electric cooperative organized under the Rural Electric  
5 Cooperative Act; and

6 (4) "low-income" has the same meaning as set  
7 forth in Paragraph (2) of Subsection C of Section 62-8-1 NMSA  
8 1978."

9 SECTION 4. EFFECTIVE DATE.--The effective date of the  
10 provisions of this act is July 1, 2023.