

LFC Requester:

Julisa Rodriguez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: January 22, 2025

Check all that apply:

Bill Number: HB 91

Original Correction
Amendment Substitute

Sponsor: Rep. Ortiz & Rep. Roybal-Caballero

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

Short Title: Public Utility Rate Structures

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

HB 91 seeks to add additional language to the existing version of Section 62-8-6 NMSA 1978, “Discrimination.” New Mexico investor-owned utilities (“IOUs”) are prohibited by this statute from “make[ing] or grant[ing] any unreasonable preference or advantage to any corporation or person within any classification or subject[ing] any corporation or person within any classification to any unreasonable prejudice or disadvantage” when designing rates or providing service (“preferential/prejudicial rates”).

The existing version of Section 62-8-6 establishes certain exceptions to this prohibition on preferential/prejudicial rates by stating that nothing shall prohibit the New Mexico Public Regulation Commission (“NMPRC”) from approving:

- economic development rates,
- rates designed to retain load, or
- energy efficiency programs designed to reduce the burden of energy costs on low-income customers pursuant to the Efficient Use of Energy Act [Chapter 62, Article 17 NMSA 1978].

The proposed amendment does not alter or remove any of the existing exception, but seeks to add two additional exceptions to the prohibition on preferential/prejudicial rates:

- rates designed to reduce the burden of energy costs on low-income customers, and
- rates that seek to decrease or eliminate participating customer arrears or increase the frequency of participating customer payments; provided that such programs would be designed to increase affordability and continuity of service for participating customers and reduce utility costs associated with customer account collection activities

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

Pursuant to Section 62-3-1 of the Public Utility Act, it is the declared policy of the state that utility service is to be available at rates that are “fair, just and reasonable.” The NMPRC enacts this policy, in part, by adhering to certain inter-related regulatory principles. Under the “cost-causation principle,” utility rates are assigned to different classes of an IOU’s customers, such that the rate each customer class pays reflects, as closely as possible, the costs they are responsible for creating. This concept is closely related to a second regulatory principle, minimizing cross-subsidization between rate classes, or creating rates that will result in one class paying more in order for another class to pay less.

HB 91 expands the NMPRC’s authority to approve rate design that does not adhere to these regulatory principles. This change effectively means that an IOU could charge customers with identical consumption different rates, effectively making one customer responsible for a portion of the other (low-income) customer’s bill. In this respect, it is important to recognize that reducing rates for members of the low-income rate class will necessarily increase the bills of other customers. This is different than taxpayer funded program such as the federally funded Low Income Home Energy Affordability Program (“LIHEAP”), which provides low-income assistance without increasing the bills of other customers.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

N/A

AMENDMENTS

N/A