

1 SENATE BILL 276

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

3 INTRODUCED BY

4 Peter Wirth

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10 AN ACT

11 RELATING TO UTILITIES; AMENDING SECTIONS OF THE EFFICIENT USE
12 OF ENERGY ACT TO PROVIDE FOR COST-EFFECTIVENESS USING THE
13 UTILITY COST TEST.

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

16 SECTION 1. Section 62-17-4 NMSA 1978 (being Laws 2005,
17 Chapter 341, Section 4, as amended) is amended to read:

18 "62-17-4. DEFINITIONS.--As used in the Efficient Use of
19 Energy Act:

20 A. "achievable" means those energy efficiency or
21 load management resources available to the utility using its
22 best efforts;

23 B. "commission" means the public regulation
24 commission;

25 C. "cost-effective" means that the energy

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1 efficiency or load management program meets the [~~total~~
2 ~~resource~~] utility cost test;

3 D. "customer" means a utility customer at a single,
4 contiguous field, location or facility, regardless of the
5 number of meters at that field, location or facility;

6 E. "distribution cooperative utility" means a
7 utility with distribution facilities organized as a rural
8 electric cooperative pursuant to Laws 1937, Chapter 100 or the
9 Rural Electric Cooperative Act or similarly organized in other
10 states;

11 F. "energy efficiency" means measures, including
12 energy conservation measures, or programs that target consumer
13 behavior, equipment or devices to result in a decrease in
14 consumption of electricity and natural gas without reducing the
15 amount or quality of energy services;

16 G. "large customer" means a customer with
17 electricity consumption greater than seven thousand megawatt-
18 hours per year or natural gas use greater than three hundred
19 sixty thousand decatherms per year;

20 H. "load management" means measures or programs
21 that target equipment or devices to result in decreased peak
22 electricity demand or shift demand from peak to off-peak
23 periods;

24 I. "public utility" means a public utility that is
25 not also a distribution cooperative utility; and

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1 J. "[total resource] utility cost test" means a
2 standard that is met if the monetary costs that are borne by
3 the utility [~~and the participants~~] and that are incurred to
4 develop, acquire and operate energy efficiency or load
5 management resources on a life-cycle basis are less than the
6 avoided monetary costs associated with developing, acquiring
7 and operating the associated supply-side resources. In
8 developing this test for energy efficiency and load management
9 programs directed to low-income customers, the commission shall
10 either quantify or assign a reasonable value to reductions in
11 working capital, reduced collection costs, lower bad-debt
12 expense, improved customer service effectiveness and other
13 appropriate factors as utility system economic benefits."

14 SECTION 2. Section 62-17-5 NMSA 1978 (being Laws 2005,
15 Chapter 341, Section 5, as amended) is amended to read:

16 "62-17-5. COMMISSION APPROVAL--ENERGY EFFICIENCY AND LOAD
17 MANAGEMENT PROGRAMS--DISINCENTIVES.--

18 A. Pursuant to the findings and purpose of the
19 Efficient Use of Energy Act, the commission shall consider
20 public utility acquisition of cost-effective energy efficiency
21 and load management resources to be in the public interest.

22 B. The commission shall direct public utilities to
23 evaluate and implement cost-effective programs that reduce
24 energy demand and consumption.

25 C. Before the commission approves an energy

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1 efficiency and load management program for a public utility, it
2 must find that the portfolio of programs is cost-effective and
3 designed to provide every affected customer class with the
4 opportunity to participate and benefit economically. The
5 commission shall determine the cost-effectiveness of energy
6 efficiency and load management measures using the ~~[total~~
7 ~~resource]~~ utility cost test.

8 D. The commission shall act expeditiously on public
9 utility requests for approval of energy efficiency or load
10 management programs.

11 E. Public utilities shall obtain commission
12 approval of energy efficiency and load management programs
13 before they are implemented. Public utilities proposing new
14 energy efficiency and load management programs shall, before
15 seeking commission approval, solicit nonbinding recommendations
16 on the design, implementation and use of third-party energy
17 service contractors through competitive bidding on the programs
18 from commission staff, the attorney general, the energy,
19 minerals and natural resources department and other interested
20 parties. The commission may for good cause require utilities
21 to solicit competitive bids for energy efficiency and load
22 management resources.

23 F. The commission shall, upon petition or its own
24 motion, identify regulatory disincentives or barriers for
25 public utility expenditures on energy efficiency and load

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1 management measures and ensure that they are removed in a
2 manner that balances the public interest, consumers' interests
3 and investors' interests. The commission shall also provide
4 public utilities an opportunity to earn a profit on cost-
5 effective energy efficiency and load management resource
6 development that, with satisfactory program performance, is
7 financially more attractive to the utility than supply-side
8 utility resources.

9 G. Public utilities providing electricity and
10 natural gas service to New Mexico customers shall, subject to
11 commission approval, acquire all cost-effective and achievable
12 energy efficiency and load management resources available in
13 their service territories. This requirement, however, for
14 public utilities providing electricity service, shall not be
15 less than savings of five percent of 2005 total retail
16 kilowatt-hour sales to New Mexico customers in calendar year
17 2014 and ten percent of 2005 total retail kilowatt-hour sales
18 to New Mexico customers in 2020 as a result of energy
19 efficiency and load management programs implemented starting in
20 2007.

21 H. A utility that determines it cannot achieve the
22 minimum requirements established in Subsection G of this
23 section shall report to the commission on why it cannot meet
24 those requirements and shall propose alternative requirements
25 based on acquiring all cost-effective and achievable energy

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1 efficiency and load management resources. If the commission
2 determines, after hearing, that the minimum requirements of
3 Subsection G of this section exceed the achievable amount of
4 energy efficiency and load management available to the utility,
5 the commission shall establish lower minimum energy savings
6 requirements for the utility based on the maximum amount of
7 energy efficiency and load management that it determines can be
8 achieved."

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