

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILL 352

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

AN ACT

RELATING TO UTILITIES; AMENDING A SECTION OF THE PUBLIC UTILITY  
ACT TO PROVIDE FOR ECONOMIC DEVELOPMENT RATES NO LOWER THAN THE  
INCREMENTAL COST OF PROVIDING SERVICE.

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

**SECTION 1.** Section 62-6-26 NMSA 1978 (being Laws 1989,  
Chapter 5, Section 1, as amended) is amended to read:

"62-6-26. ECONOMIC DEVELOPMENT RATES FOR GAS AND ELECTRIC  
UTILITIES--AUTHORIZATION.--

A. The commission may approve or otherwise allow to  
become effective, as provided in Subsection B of this section,  
applications from utilities or persons subject to regulation  
pursuant to Subsection B of Section 62-6-4 NMSA 1978 or filings  
by cooperative utilities pursuant to [~~Subsection F of~~] Section  
62-8-7 NMSA 1978, as appropriate, for special rates or tariffs

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1 in order to prevent the loss of customers, to encourage  
2 customers to expand present facilities and operations in New  
3 Mexico and to attract new customers where necessary or  
4 appropriate to promote economic development in New Mexico. Any  
5 such special rates or tariffs shall be designed so as to  
6 recover at least the incremental cost of providing service to  
7 such customers.

8 B. The commission may approve or otherwise allow to  
9 become effective applications from utilities or persons subject  
10 to regulation pursuant to Subsection B of Section 62-6-4 NMSA  
11 1978 and filings by cooperative utilities pursuant to  
12 [~~Subsection F of~~] Section 62-8-7 NMSA 1978 for economic  
13 development rates and rates designed to retain load for gas and  
14 electric utility customers. For purposes of this section and  
15 Section 62-8-6 NMSA 1978, economic development rates and rates  
16 designed to retain load are rates set at a level lower than the  
17 corresponding service rate for which a customer would otherwise  
18 qualify.

19 C. Except as provided in Subsection D of this  
20 section, economic development rates shall be approved or  
21 otherwise allowed to become effective for an electric utility  
22 or persons subject to regulation pursuant to Subsection B of  
23 Section 62-6-4 NMSA 1978 or filings by cooperative utilities  
24 pursuant to [~~Subsection F of~~] Section 62-8-7 NMSA 1978 only  
25 when the utility or the substantially full requirements

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1 supplier of the utility has excess capacity. For purposes of  
2 this section, "excess capacity" means the amount of electric  
3 generating and purchased power capacity available to the  
4 utility or such supplier that is greater than the utility's or  
5 such supplier's peak load plus a fixed percentage reserve  
6 margin set by the commission.

7 D. Economic development rates may be approved or  
8 otherwise allowed to become effective for electric utilities or  
9 persons subject to regulation pursuant to Subsection B of  
10 Section 62-6-4 NMSA 1978 or filings by cooperative utilities  
11 pursuant to Section 62-8-7 NMSA 1978 that do not meet the  
12 qualifications of Subsection C of this section; provided that  
13 the following conditions are met:

14 (1) economic development rates approved under  
15 this subsection shall not be lower than the incremental cost of  
16 providing service to the economic development rate customer as  
17 determined by the commission. As used in this subsection,  
18 "economic development rate customer" means a customer that  
19 directly benefits from the economic development rate  
20 established pursuant to this subsection; and

21 (2) an economic development rate approved for  
22 any customer under this subsection shall last no longer than  
23 four years, except that the commission may approve the rate for  
24 up to twelve additional months if it finds that the additional  
25 period is necessary to attract a particular economic

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1 development rate customer to New Mexico.

2 E. For purposes of this section, "incremental cost"  
3 at a minimum shall include fuel and purchased power costs,  
4 costs recoverable from customers pursuant to the Renewable  
5 Energy Act and the Efficient Use of Energy Act and the direct  
6 costs of facilities necessary to provide service to the  
7 customer."

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