The Legislature
of the
State of New Mexico

52nd Legislature, 1st Session

LAWS 2015

CHAPTER 72

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR

SENATE BILL 352, as amended

Introduced by
CHAPTER 72

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
Section 62-8-7 NMSA 1978, as appropriate, for special rates
or tariffs in order to prevent the loss of customers, to
encourage customers to expand present facilities and
operations in New Mexico and to attract new customers where
necessary or appropriate to promote economic development in
New Mexico. Any such special rates or tariffs shall be
designed so as to recover at least the incremental cost of
providing service to such customers.

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

C. Except as provided in Subsection D of this section, economic development rates shall be approved or otherwise allowed to become effective for an electric utility or persons subject to regulation pursuant to Subsection B of Section 62-6-4 NMSA 1978 or filings by cooperative utilities pursuant to Section 62-8-7 NMSA 1978 only when the utility or the substantially full requirements supplier of the utility has excess capacity. For purposes of this section, "excess capacity" means the amount of electric generating and purchased power capacity available to the utility or such supplier that is greater than the utility's or such supplier's peak load plus a fixed percentage reserve margin set by the commission.

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

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

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

E. For purposes of this section, "incremental cost" at a minimum shall include all additional costs incurred to serve the economic development rate customer that would not otherwise have been incurred to serve other customers, fuel and purchased power costs, costs recoverable from customers pursuant to the Renewable Energy Act and the Efficient Use of Energy Act and the direct costs of facilities necessary to provide service to the customer. The commission shall not
impute to the electric utility revenues that would have been 
received from the economic development rate or load retention 
customer if they had been provided service under the 
corresponding rate for which they would have otherwise 
qualified."
Approved by me this 7th day of April, 2015

Governor Susana Martinez
State of New Mexico