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SENATE BILL 336

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

Antoinette Sedillo-Lopez

AN ACT

RELATING TO PUBLIC UTILITIES; REQUIRING A PUBLIC UTILITY TO  
SUBMIT AN APPLICATION TO THE PUBLIC REGULATION COMMISSION TO  
EXPAND THE USE OF ELECTRICITY TO POWER VEHICLES AND OTHER  
EQUIPMENT THAT TRANSPORT GOODS OR PEOPLE; PROVIDING THAT A  
PERSON WHO ENGAGES IN THE RETAIL DISTRIBUTION OF ELECTRICITY  
FOR VEHICULAR FUEL IS NOT A PUBLIC UTILITY.

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

**SECTION 1.** A new section of the Public Utility Act is  
enacted to read:

"[NEW MATERIAL] APPLICATIONS TO EXPAND TRANSPORTATION  
ELECTRIFICATION.--

A. No later than January 1, 2021, and thereafter  
upon request by the commission, but no more frequently than  
every two years, a public utility shall file with the

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1 commission an application to expand transportation  
2 electrification. Applications may include investments or  
3 incentives to facilitate the deployment of charging  
4 infrastructure and associated electrical equipment that support  
5 transportation electrification, including electrification of  
6 public transit and publicly owned vehicle fleets, rate designs  
7 or programs that encourage charging that supports the operation  
8 of the electric grid and customer education and outreach  
9 programs that increase awareness of such programs and of the  
10 benefits of transportation electrification.

11 B. When considering applications for approval, the  
12 commission shall consider whether the investments, incentives,  
13 programs and expenditures are:

14 (1) reasonably expected to improve the public  
15 utility's electrical system efficiency, the integration of  
16 variable resources, operational flexibility and system  
17 utilization during off-peak hours;

18 (2) reasonably expected to increase access to  
19 the use of electricity as a transportation fuel, with special  
20 consideration given for increasing such access to low-income  
21 users and users in underserved communities;

22 (3) designed to contribute to meeting air  
23 quality standards and reducing statewide emissions of  
24 greenhouse gases to forty percent below 1990 levels by 2030 and  
25 to eighty percent below 1990 levels by 2050;

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1 (4) reasonably expected to stimulate  
2 innovation, competition and increased consumer choices in  
3 transportation electrification and related infrastructure and  
4 services; attract private capital investments; provide  
5 reasonable customer protections; and utilize high quality jobs  
6 and skilled worker training programs;

7 (5) reasonable and prudent, as determined by  
8 the commission; and

9 (6) transparent, incorporating public  
10 reporting requirements to inform program design and commission  
11 policy.

12 C. A public utility that undertakes measures to  
13 expand transportation electrification pursuant to this section  
14 shall have the option of recovering the public utility's  
15 reasonable costs for the expansion through a commission-  
16 approved tariff rider or base rate or both.

17 D. As used in this section:

18 (1) "low-income" means annual household  
19 adjusted gross income, as defined in the Income Tax Act, of  
20 equal to or less than two hundred percent of the federal  
21 poverty level;

22 (2) "transportation electrification" means the  
23 use of electricity from external sources to power all or part  
24 of passenger vehicles, trucks, buses, trains, boats or other  
25 equipment that transport goods or people; and

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1 (3) "underserved community" means an area in  
2 this state, including a county, municipality or neighborhood,  
3 or subset of such area, where the median income of the area is  
4 low-income."

5 SECTION 2. Section 62-3-4 NMSA 1978 (being Laws 1967,  
6 Chapter 96, Section 4, as amended) is amended to read:

7 "62-3-4. LIMITATIONS AND EXCEPTIONS.--

8 A. The term "public utility" or "utility", when  
9 used in the Public Utility Act, shall not include:

10 (1) any person not otherwise a public utility  
11 who furnishes the service or commodity only to [~~himself, his~~]  
12 that person or that person's employees or tenants, when such  
13 service or commodity is not resold to or used by others, or who  
14 engages in the retail distribution of natural gas or  
15 electricity for vehicular fuel; or

16 (2) a corporation engaged in the business of  
17 operating a railroad and that does not primarily engage in the  
18 business of selling the service or commodity but that only  
19 incidentally to its railroad business or occasionally furnishes  
20 the service or commodity to another under a separate limited or  
21 revocable agreement or sells to a utility or municipality for  
22 resale, or that sells the service or commodity to another  
23 railroad, the state or federal government or a governmental  
24 agency, or that sells or gives for a consideration under  
25 revocable agreements or permits quantities of water out of any

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1 surplus of water supply acquired and held by it primarily for  
2 railroad purposes; and such railroad corporation shall not be  
3 subject to any of the provisions of the Public Utility Act.

4 B. The business of any public utility other than of  
5 the character defined in Subsection G of Section 62-3-3 NMSA  
6 1978 is not subject to provisions of the Public Utility Act."

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