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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>SCONC</u>	<b>LAST UPDATED</b> <u>2/17/23</u>
	<b>ORIGINAL DATE</b> <u>2/14/2023</u>
<b>SHORT TITLE</b> <u>Retail Distributed Generation</u>	<b>BILL NUMBER</b> <u>CS/Senate Bill 266/SCONC</u>
	<b>ANALYST</b> <u>J. Torres</u>

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	See Fiscal Impact	See Fiscal Impact			

Parentheses ( ) indicate expenditure decreases.  
\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Responses Received From

Public Regulation Commission (PRC)  
Energy, Minerals Natural Resources Department (EMNRD)

## SUMMARY

### Synopsis of SCONC Substitute for Senate Bill 266

The Senate Conservation Committee Substitute for Senate Bill amends the Renewable Energy Act (REA), Section 62-16-3 NMSA 1978, to require a public utility to include retail distributed generation in its electric energy supply portfolio.

The bill defines “retail distributed generation” as: “a new or existing renewable energy facility that is no greater than five megawatts, measured in alternating current, that is interconnected to the distribution system and: (1) is either located behind a New Mexico customer's meter; or (2) is a community solar facility as defined in Subsection D of Section 62-16B-2 NMSA 1978.”

Section 62-16-4 NMSA 1978 is amended as follows “B. As part of the resource acquisitions needed to comply with Subsection A of this section, a public utility shall cause retail distributed generation to be interconnected to the public utility's system by encouraging customer adoption and access. Compliance shall be demonstrated by the public utility's retirement of renewable energy certificates for retail distributed generation; provided that the associated renewable energy is delivered to the public utility and assigned to the public utility's New Mexico customers. In the case of qualifying facilities that are net metered, all of the energy generated by the qualifying facility shall be deemed to have been purchased by the public utility and all of the energy consumed on-site by the qualifying facility shall be included in the determination of total retail sales for the purposes of calculating the renewable portfolio standard as described in

Subsection A of this section. For public utilities other than rural electric cooperatives and municipalities, requirements of the renewable portfolio standard are [stated below]:”

In subsections (B)(1) through (B)(7), the bill requires public utilities to account for “retail distributed generation” in the renewable portfolio standard (RPS) provisions of the REA. The minimum renewable portfolio standard requirements for retail distributed generation are:

- By January 1, 2026, retail distributed generation to comprise at least 6 percent of each public utility’s total retail sales to New Mexico customers;
- By January 1, 2028, at least 8 percent;
- By January 1, 2030, at least 10 percent;
- By January 1, 2031, at least 12 percent;
- By January 1, 2033, at least 15 percent; and
- By November 1, 2032: “the commission shall provide to the appropriate interim legislative committee a report on the status of the retail distributed generation requirement set forth in this subsection and recommendations for future compliance requirements; and (7) to support the implementation of the requirements set forth in this subsection: (a) each public utility shall, by December 31, 2024, make available information and maps that provide the amount of retail distributed generation that can be interconnected to the distribution system at a given time at a given location under existing grid conditions and operations without adversely impacting safety, power quality, reliability or other operational criteria and without requiring electric infrastructure upgrades; and (b) each public utility shall make such information accessible via the public utility's website and update such information on a monthly basis.”

Subsection (C) states: “Any person may contest a public utility's compliance with Subsection B of this section by bringing a complaint before the commission.”

Public utilities would also be required to report on their progress toward fulfilling all the requirements of the RPS (not just those related to retail distributed generation) by filing annual reports at the Public Regulation Commission (PRC).

The effective date of this bill is January 1, 2024.

## **FISCAL IMPLICATIONS**

The Public Regulation Commission (PRC) does not project any additional operating budget costs associated with the bill. The agency does note that the bill would require a new rulemaking process to update renewable portfolio standards (RPS). In addition, the inclusion of distributed energy resources in utility RPS plans will add complexity to the Commission’s review of those plans.

Though not a direct cost to the state, it is worth noting that the legislation would have an impact on the investor-owned utility’s cost of power, interconnection costs, and consequently the rates paid for by the electricity customers.

## SIGNIFICANT ISSUES

Utilities regulated by the Public Utility Act (investor-owned utilities, but not rural electric cooperatives or municipal utilities) are required to meet renewable energy portfolio targets without reference to what sort of renewable energy they would prefer to procure and distribute. In effect, there is nothing in current law to say that a utility could not meet its entire RPS obligation by procuring only geothermal energy, or only wind energy, or only solar energy from behind-the-meter distributed solar. This bill would change this by requiring utilities to procure a rising percentage of their renewable energy from “distributed retail generation”, i.e. behind-the-meter small-scale generation or community solar installation.

EMNRD notes that this approach has been used in other states. Vermont, for example has RPS that require 10 percent of utility retail sales be procured from distributed generation by the year 2032. Carve-outs for other forms of renewable energy, usually solar, are also common. The effect of such carve-outs is to promote the development of a particular type of renewable energy generation. In the case of this bill, the intention would be to incentivize distributed generation and community solar, by requiring utilities to interconnect with, and procure, energy generated by such facilities in order to meet their RPS requirements.

EMNRD further notes that while the distributed generation mandated in Senate Bill 266 could benefit consumers and grid modernization, the speed at which utilities would have to modernize the grid could result in serious reliability issues:

Distributed generation has significant benefits to both individual energy consumers and to a “modern” electric grid – if a “modern” grid is defined as one which is capable of accommodating, managing, and utilizing two-way flow of energy. For the individual consumer, distributed generation can lower (or eliminate) their electric bill and have the possibility of providing reliable electricity even during blackouts or brownouts. For a “modern” grid, which can access and utilize distributed generation without flooding the grid with excess energy during peak generation times, distributed generation increases reliability and efficiency.

However, SB266 is not a grid modernization bill: it is a bill that alters the RPS. There is no guarantee in SB266 that the regulated utilities will be able to modernize their grid architecture on the timeline the SB266 RPS requirements would require. New Mexico’s current grid is not capable of fully utilizing two-way energy flow. The RPS requirements in SB266 might, if the utilities did not move quickly toward advanced metering infrastructure, distribution system upgrades, and other grid modernization mechanisms, cause grid system unreliability.

Similarly, the PRC notes that the bill scales up the requirement for retail distributed generation quickly, mandating that no later than January 1, 2026, retail distributed generation shall comprise no less than 6 percent of each public utility’s total retail sales to New Mexico customers. This increases to 8 percent in 2028, 10 percent in 2030, 12 percent in 2031, and 15 percent in 2033. The PRC is not aware of any feasibility studies to determine if those targets are possible.

## TECHNICAL ISSUES

In agency analysis, the PRC noted that the bill does not address the existing issue of “lost renewable credits, stating:

Residential behind-the-meter distributed energy (solar) decisions are made by homeowners. The homeowner selects a solar installer and applies for an interconnection agreement with the utility. The customer will also enter into a net metering agreement that allows the small customer ( $\leq 10$  kW) to get the full residential rate credit (currently about 12.2¢/kWh) for the amount of surplus electricity credited by the utility. For customers with projects greater than 10 kW and less than 10 MW, any surplus energy is purchased by the utility at the utility’s avoided cost (currently around 2.9¢/kWh).

There is currently a cap on the size of the distributed energy facility equal to 120 percent of the average annual consumption at the host site. This means that the amount of surplus energy credited or purchased by the utility is a small portion of the total kWh’s produced by the homeowner’s solar system. Although it is renewable, the solar energy consumed by the homeowner is not counted towards a “renewable energy credit” because it is not purchased or credited by the utility, only the surplus is. These behind-the-meter “lost renewable credits” are not addressed in this bill. Ownership of the credits is established in Section 62-16-5(B)(1). Renewable Energy Certificates are owned by the generator of the renewable energy unless transferred to a purchaser.

## OTHER SUBSTANTIVE ISSUES

EMNRD notes that the bill’s inclusion of community solar projects in the definition of “retail distributed generation” would serve to incentivize the development of community solar within each utility’s service territory, bringing benefits to low-income New Mexicans and others who cannot access behind-the-meter solar generation. However, the same inclusion may conflict with the provisions of the 2021 Community Solar Act, which created specific limits and targets for community solar facility interconnection within each utility’s service territory.

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