

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

Resolution No. 2015-____

Electric Public Utilities – Hearing – SB 498

SPONSOR(S): Councilor Ives

SUMMARY: The resolution supports proposed state legislation, Senate Bill 498 (“SB 498”), relating to public utilities – limiting costs that can be charged by certain public utilities without notice and hearing.

PREPARED BY: Rebecca Seligman, Legislative Liaison Assistant

FISCAL IMPACT: No

DATE: February 16, 2015

ATTACHMENTS: Resolution
FIR
Senate Bill 498

1 CITY OF SANTA FE, NEW MEXICO

2 RESOLUTION NO. 2015-____

3 INTRODUCED BY:

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5 Councilor Peter Ives

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10 A RESOLUTION

11 SUPPORTING PROPOSED STATE LEGISLATION, SENATE BILL 498 ("SB 498"),
12 RELATING TO PUBLIC UTILITIES – LIMITING COSTS THAT CAN BE CHARGED BY
13 CERTAIN PUBLIC UTILITIES WITHOUT NOTICE AND HEARING.

14
15 WHEREAS, the 60 day session of the 2015 Legislative Session began on January 20, 2015;

16 and

17 WHEREAS, SB 498, has been introduced for consideration by the 52nd Legislature - State of
18 New Mexico - First Session, 2015; and

19 WHEREAS, SB 498 would require a hearing involving an increase in rates or charges sought
20 by a public electric utility; and

21 WHEREAS, the burden of proof to show that the increased rate or change is just and
22 reasonable be the responsibility of the public utility.

23 NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE
24 CITY OF SANTA FE that the Governing Body hereby supports SB 498, relating to utilities –
25 limiting costs that can be charged by certain public utilities without notice and hearing.

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BE IT FURTHER RESOLVED that the City Clerk is directed to forward a copy of this resolution to the City of Santa Fe lobbyist and the City of Santa Fe State Legislative Delegation.

PASSED, APPROVED, and ADOPTED this ____ day of _____, 2015.

ATTEST:

JAVIER M. GONZALES, MAYOR

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:



KELLEY BRENNAN, CITY ATTORNEY

City of Santa Fe Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. General Information

(Check) Bill: _____ Resolution: X

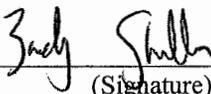
(A single FIR may be used for related bills and/or resolutions)

Short Title(s): A RESOLUTION SUPPORTING PROPOSED STATE LEGISLATION, SENATE BILL 498 ("SB 498"), RELATING TO PUBLIC UTILITIES – LIMITING COSTS THAT CAN BE CHARGED BY CERTAIN PUBLIC UTILITIES WITHOUT NOTICE AND HEARING.

Sponsor(s): Councilor Ives

Reviewing Department(s): Public Utilities Department

Persons Completing FIR: John Alejandro Date: 2/16/2015 Phone: 955-6236

Reviewed by City Attorney:  Date: 2/17/15
(Signature)

Reviewed by Finance Director:  Date: 2-17-2015
(Signature)

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution:

The resolution calls for support of state legislation - Senate Bill 498 which relates to public utilities and limits the costs that can be charged by certain public utilities without hearing and notice.

Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" – if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: _____

Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected

Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Total:	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected

_____	\$ _____	_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
Total:	\$ _____	_____	\$ _____	_____	_____	_____

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

N/A

Section D. General Narrative

1. Conflicts: Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

None

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

If this resolution is not enacted, then the City will not show its support of this state legislation.

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

No

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

The resolution would direct a show of support for state legislation that requires rate/cost increases by utilities that impact rate payers to be discussed in a hearing, which is beneficial to the public.

Form adopted: 01/12/05; revised 8/24/05; revised 4/17/08

1 SENATE BILL 498

2 52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

3 INTRODUCED BY

4 Sander Rue

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10 AN ACT

11 RELATING TO PUBLIC UTILITIES; LIMITING COSTS THAT CAN BE
12 CHARGED BY CERTAIN ELECTRIC PUBLIC UTILITIES WITHOUT NOTICE AND
13 HEARING.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 62-8-7 NMSA 1978 (being Laws 1991,
17 Chapter 251, Section 1, as amended by Laws 2011, Chapter 155,
18 Section 1 and by Laws 2011, Chapter 170, Section 1) is amended
19 to read:

20 "62-8-7. CHANGE IN RATES.--

21 A. At any hearing involving an increase in rates or
22 charges sought by a public utility, the burden of proof to show
23 that the increased rate or charge is just and reasonable shall
24 be upon the utility.

25 B. Unless the commission otherwise orders, no

.199445.3

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 public utility shall make any change in any rate that has been
2 duly established except after thirty days' notice to the
3 commission, which notice shall plainly state the changes
4 proposed to be made in the rates then in force and the time
5 when the changed rates will go into effect and other
6 information as the commission by rule requires. The utility
7 shall also give notice of the proposed changes to other
8 interested persons as the commission may direct. All proposed
9 changes shall be shown by filing new schedules that shall be
10 kept open to public inspection. The commission for good cause
11 shown may allow changes in rates without requiring the thirty
12 days' notice, under conditions that it may prescribe.

13 C. Whenever there is filed with the commission by
14 any public utility a complete application as prescribed by
15 commission rule proposing new rates, the commission may, upon
16 complaint or upon its own initiative, except as otherwise
17 provided by law, upon reasonable notice, enter upon a hearing
18 concerning the reasonableness of the proposed rates. If the
19 commission determines a hearing is necessary, it shall suspend
20 the operation of the proposed rates before they become
21 effective but not for a longer initial period than nine months
22 beyond the time when the rates would otherwise go into effect,
23 unless the commission finds that a longer time will be
24 required, in which case the commission may extend the period
25 for an additional three months. The commission shall hear and

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underscored material = new
~~[bracketed material] = delete~~

1 decide cases with reasonable promptness. The commission shall
2 adopt rules identifying criteria for various rate and tariff
3 filings to be eligible for suspension periods shorter than what
4 is allowed by this subsection and to be eligible for summary
5 approval without hearing.

6 D. If after a hearing the commission finds the
7 proposed rates to be unjust, unreasonable or in any way in
8 violation of law, the commission shall determine the just and
9 reasonable rates to be charged or applied by the utility for
10 the service in question and shall fix the rates by order to be
11 served upon the utility or the commission by its order shall
12 direct the utility to file new rates respecting such service
13 that are designed to produce annual revenues no greater than
14 those determined by the commission in its order to be just and
15 reasonable. Those rates shall thereafter be observed until
16 changed, as provided by the Public Utility Act.

17 E. Except as otherwise provided by law, any
18 increase in rates or charges for the utility commodity by a
19 public utility as defined in Paragraph (1) of Subsection G of
20 Section 62-3-3 NMSA 1978 that is not a rural electric
21 cooperative organized under the Rural Electric Cooperative Act
22 or a foreign distribution cooperative, based upon cost factors
23 other than taxes, shall be permitted only after notice and
24 hearing as provided by this section.

25 [~~E.~~] F. Except as otherwise provided by law, any

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underscored material = new
~~[bracketed material] = delete~~

1 increase in rates or charges for the utility commodity by a
2 public utility as defined in Paragraph (2), (4), (5) or (6) of
3 Subsection G of Section 62-3-3 NMSA 1978, or by a rural
4 electric cooperative organized under the Rural Electric
5 Cooperative Act, or by a foreign distribution cooperative,
6 based upon cost factors other than taxes or cost of fuel, gas
7 or purchased power, filed for after April 4, 1991, shall be
8 permitted only after notice and hearing as provided by this
9 section. ~~[The commission shall enact rules governing the use~~
10 ~~of tax, fuel, gas or purchased power adjustment clauses by~~
11 ~~utilities that enable the commission to consider periodically~~
12 ~~at least the following:~~

13 ~~(1) whether the existence of a particular~~
14 ~~adjustment clause is consistent with the purposes of the Public~~
15 ~~Utility Act, including serving the goal of providing reasonable~~
16 ~~and proper service at fair, just and reasonable rates to all~~
17 ~~customer classes;~~

18 ~~(2) the specific adjustment mechanism to~~
19 ~~recover tax, gas, fuel or purchased power costs;~~

20 ~~(3) which costs should be included in an~~
21 ~~adjustment clause, procedures to avoid the inclusion of costs~~
22 ~~in an adjustment clause that should not be included and methods~~
23 ~~by which the propriety of costs that are included may be~~
24 ~~determined by the commission in a timely manner, including what~~
25 ~~informational filings are required to enable the commission to~~

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underscored material = new
[bracketed material] = delete

1 ~~make such a determination; and~~

2 ~~(4) the proper adjustment period to be~~
3 ~~employed.~~

4 F.] G. Except as otherwise provided by law, any
5 increase in rates or charges for a public utility as defined in
6 Paragraph (3) of Subsection G of Section 62-3-3 NMSA 1978 based
7 upon cost factors other than taxes or cost of fuel, gas,
8 purchased power or acquisition of water resources shall be
9 permitted only after notice and hearing as provided by this
10 section. For the purposes of this subsection, "acquisition of
11 water resources" does not include the purchase or other
12 permanent acquisition of water rights.

13 H. The commission shall enact rules governing the
14 use of tax, fuel, gas, purchased power or water resource
15 acquisition adjustment clauses by ~~[such]~~ utilities that enable
16 the commission to consider periodically at least the following:

17 (1) whether the existence of a particular
18 adjustment clause is consistent with the purposes of the Public
19 Utility Act, including serving the goal of providing reasonable
20 and proper service at fair, just and reasonable rates to all
21 customer classes;

22 (2) the specific adjustment mechanism to
23 recover tax, gas, fuel, purchased power or acquisition of water
24 resource costs;

25 (3) which costs should be included in an

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underscored material = new
[bracketed material] = delete

1 adjustment clause, procedures to avoid the inclusion of costs
2 in an adjustment clause that should not be included and methods
3 by which the propriety of costs that are included may be
4 determined by the commission in a timely manner, including what
5 informational filings are required to enable the commission to
6 make such a determination; and

7 (4) the proper adjustment period to be
8 employed.

9 [~~G.~~] I. The commission may eliminate or condition a
10 particular adjustment clause if it finds such elimination or
11 condition is consistent with the purposes of the Public Utility
12 Act, including serving the goal of providing reasonable and
13 proper service at fair, just and reasonable rates to all
14 customer classes; provided, however, that no such elimination
15 or condition shall be ordered unless such elimination or
16 condition will not place the affected utility at a competitive
17 disadvantage. The commission rules shall also provide for
18 variances and may provide for separate examination of a
19 utility's adjustment clause based upon that utility's
20 particular operating characteristics.

21 [~~H.~~] J. Whenever there is filed with the commission
22 a schedule proposing new rates by a rural electric cooperative
23 organized under the Rural Electric Cooperative Act or by a
24 foreign distribution cooperative, the rates shall become
25 effective as proposed by the rural electric cooperative or the

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underscored material = new
~~[bracketed material]~~ = delete

1 foreign distribution cooperative without a hearing, except as
2 provided in this subsection. The rural electric cooperative or
3 the foreign distribution cooperative shall give written notice
4 of the proposed rates to its affected patrons in New Mexico at
5 least thirty days prior to the filing with the commission.
6 Upon the filing with the commission of a protest setting forth
7 grounds for review of the proposed rates signed by the lesser
8 of one percent of or twenty-five members of a customer rate
9 class of the rural electric cooperative or foreign distribution
10 cooperative and if the commission determines that there is just
11 cause for reviewing the proposed rates on one or more of the
12 grounds of the protest, the commission shall suspend the rates
13 and conduct a hearing concerning the reasonableness of any
14 proposed rates filed by a rural electric cooperative or a
15 foreign distribution cooperative pursuant to Subsections C and
16 D of this section. The protest shall be filed no later than
17 twenty days after the filing with the commission of the
18 schedule proposing the new rates. The hearing and review shall
19 be limited to the issues set forth in the protest and for which
20 the commission may find just cause for the review, which issues
21 shall be contained in the notice of hearing. The provisions of
22 this subsection shall not be construed to affect commission
23 authority or procedure to regulate the sale, furnishing or
24 delivery by wholesale suppliers of electricity to rural
25 electric cooperatives or foreign distribution cooperatives

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underscored material = new
~~[bracketed material]~~ = delete

1 pursuant to Section 62-6-4 NMSA 1978. In addition to the
2 adjustments permitted by Subsections ~~[F]~~ F and ~~[G]~~ I of this
3 section, the commission may authorize rate schedules of rural
4 electric cooperatives and foreign distribution cooperatives to
5 recover, without notice and hearing, changes in the cost of
6 debt capital incurred pursuant to securities that are lawfully
7 issued. This subsection shall not apply to any foreign
8 distribution cooperative that proposes rates for any of its
9 customer rate classes in the state that are higher than the
10 rates it charges to the same or substantially similar customer
11 rate class in the state under the laws of which the foreign
12 distribution cooperative is organized. For the purposes of
13 this subsection:

14 (1) "foreign distribution cooperative" means a
15 rural electric distribution cooperative corporation serving its
16 members at retail and transacting business in New Mexico
17 pursuant to the authority granted under Section 62-15-26 NMSA
18 1978;

19 (2) "member of a foreign distribution
20 cooperative" means a retail customer in New Mexico serviced by
21 a foreign distribution cooperative; and

22 (3) "member of a rural electric cooperative"
23 means a member as defined by the Rural Electric Cooperative
24 Act."

25