



ENERGY TRANSITION ACT AMENDMENTS REINSTATE PRC REVIEW AND PROTECT RATEPAYERS

Amendments will preserve key aspects of the Energy Transition Act (ETA):

- One of the highest renewable portfolio standards in the country.
- The tool of securitization to finance the closure of old dirty plants allows monopoly utilities to recover their "losses" when a plant is closed by selling bonds & adding an additional charge on customers' monthly bills.
- Transition funds for workers, workforce development and economic transition.

Amendments will restore regulatory oversight:

The monopoly utilities are using the ETA to recoup *any* undepreciated investments and decommissioning ("clean-up") costs they propose. Consumer advocates, regulatory lawyers, & experts agree that certain clauses of the ETA set dangerous precedent permitting the utilities to set their own recovery rates with no oversight from regulators.

New Mexicans will pay over \$2 billion for PNM's undepreciated investments in coal, gas, & nuclear costs, even *before decommissioning costs are included*.

Ratepayers will pay a *minimum* "non-bypassable" charge of \$6.48/month per household for 25 years. Decommissioning costs and rising interest rates will significantly increase this amount. That's billions of dollars leaving the NM economy. The ETA does NOT allow the PRC to review or reduce these costs. New Mexicans deserve to have these proposals evaluated, modified, and decided by the regulatory agency created to protect us.

The Energy Transition Act Amendments have been written to leave the good parts of the law intact (the Renewable Portfolio Standard, securitization, and the transition funds) with three changes:

1) Restore PRC authority to decide the amount consumers pay

Remove the utilities' ability to set the amount to be securitized and reinstate the PRC's authority to evaluate the evidence and determine the amount that is fair, just, and reasonable -- just as they do with all other rate increase proposals under NM law.

2) Restore PRC authority to approve or deny a utility's proposal

Change the language that currently states the PRC "must" approve securitization proposals. This amendment aligns the ETA with best practices in securitization laws across the country. The PRC would maintain the authority to deny a securitization proposal if it is found to include costs that are imprudent (like PNM's Four Corners coal plant with a price tag of nearly \$211 million) or not fair, just, and reasonable.

3) Reinstate the legal and conforming 30-day filing deadlines

Replace the hyper-narrowed 10 notice for rehearing and appeal filing deadlines with 30-day conforming NM court rules that are standard across the country.

Sponsored by Senators William Tallman, Antoinette Sedillo Lopez, Liz Stefanics and William Soules

Citizens for Fair Rates & the Environment • Food and Water Watch • Center for Biological Diversity • Pueblo Action Alliance • Renewable Taos
New Energy Economy • Physicians for Social Responsibility - NM • Common Ground Rising • Los Jardines Institute • Veterans for Peace - SF
Great Old Broads for Wilderness • Retake Our Democracy • Rio Arriba Concerned Citizens • Turtle Island Restoration Network
Interfaith Worker Justice - NM • Tewa Women United • Indivisible Nob Hill • Honor Our Pueblo Existence - HOPE • Los Alamos Study Group

WHAT DO THE EXPERTS SAY?

Steven M. Fetter, former Chairman of Michigan Public Service Commission, former bond rater for Fitch, former general counsel for Michigan State Senate, and 3-time PNM expert witness:

"I view the ETA provisions in question as a significant departure from other securitization laws in a way that undermines the core of the NMPRC's fundamental purpose and role - to regulate on behalf of the public to reasonably protect ratepayers from wasteful expenditure... The NMPRC ordered that the rights and remedies of ratepayers with respect to any imprudence by PNM flowing from the Four Corners Power Plant (FCPP) case would be protected in the next rate case. However, the ETA states that PNM is entitled to securitize any of its undepreciated assets irrespective of a prudence review, ... and without an opportunity for ratepayers to be heard to present any claim or defense. Essentially, the NMPRC appears to be barred from altering PNM's request for 100% cost recovery for undepreciated assets at FCPP... My opinion is entirely consistent with the established law in NM."

Adam Carlesco, Climate & Energy Staff Attorney, Food & Water Watch:

"The Public Regulation Commission is tasked with regulating industries to ensure fair and reasonable rates, and to assure reasonable and adequate services to the public; yet a portion of the Energy Transition Act has removed this constitutional mandate. Although we are supportive of the clean energy transition initiatives in the ETA, we must maintain the power of the PRC to do its job.

If these issues are not addressed now, ratepayers will be left to foot the bill to decommission fossil fuel and nuclear facilities, foisting the cost of the state's energy transition entirely upon the general public instead of the corporations that have profited for decades."

Mariel Nanasi, Attorney, New Energy Economy:

"There are two purposes to the ETA amendments: 1) to safeguard against potential excessive rates that may result from the future abandonment of all PNM's coal, nuclear and gas plants other than San Juan Generating Station; and 2) to reinstate PRC oversight in order to accomplish the first goal. Otherwise the average residential ratepayer will face a minimum 10% rate increase on their bill in a non-bypassable charge for the next 25 years. We don't have to choose between the environment and economic justice - we must amend the bill to ensure that consumer protections are upheld."

John Boyd, Attorney, Citizens For Fair Rates & the Environment:

"Section 31 C of the ETA removes discretion from the PRC to control the amount that PNM can extract from ratepayers as 'compensation' when it closes any of its old plants. If PNM acquired them any time before 2015, PNM gets what it wants, 100%, and the PRC has no ability to moderate the amount to balance the interests of PNM's shareholders, on the one hand, and its customers' interests on the other hand. Shareholders take all. I do not believe that the legislators knew this bill applied to all coal, nuclear, and gas assets, regardless of prudence. The costs to ratepayers of Palo Verde decommissioning could alone turn out to be astronomical. Amendments to the ETA will restore PRC oversight of the amount PNM takes from ratepayers when it closes a plant."

Jean Su, Attorney, Center for Biological Diversity:

"In the wake of a woefully inadequate federal COVID relief bill, millions of Americans are being penalized with mounting utility debt and face fatal utility shutoffs, all at the whim of their electric utilities. The ETA law sets a dangerous precedent that further removes state oversight over utilities to saddle the public with debt of uneconomical polluting fossil plants. The rest of the ETA can be preserved while addressing a few critical amendments that stop this injustice. These amendments are vital to protecting the public, especially low-wealth communities and communities of color who disproportionately suffer both the pollution of fossil plants and massive energy burdens in this economic crisis."

What if the experts are wrong?

Some ETA supporters have a different interpretation of the language. They say amendments are unnecessary because the law **does** maintain PRC authority to modify securitization proposal amounts to ensure they are fair, just, and reasonable, and to keep imprudent costs off customers' bills. The good news is that we don't need to argue, we just need to clarify the language in these specific provisions to avoid unintended consequences and achieve our shared goals: **to protect low-income New Mexicans and ensure PRC oversight as we transition to a clean energy future.**