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| LFC Requester: | Gary Chabot/Jon Clark |
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**AGENCY BILL ANALYSIS
2015 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

| | | | | | |
|-------------------|--------------------------|-------------------|-------------------------------------|-----------------|-----------------------|
| Original | <input type="checkbox"/> | Amendment | <input type="checkbox"/> | Date | <u>March 10, 2015</u> |
| Correction | <input type="checkbox"/> | Substitute | <input checked="" type="checkbox"/> | Bill No: | <u>SB 352-SJC/CS</u> |

| | | | |
|-----------------|--------------------------|-----------------------|--|
| Sponsor: | <u>Sen. Stuart Ingle</u> | Agency Code: | <u>Attorney General's Office</u> |
| Short | <u>Utility Economic</u> | Person Writing | <u>P. Cholla Khoury, AAG</u> |
| Title: | <u>Development Rates</u> | Phone: | <u>827-7484</u> Email <u>ckhoury@nmag.gov</u> |

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|------------------------------|------------------|
| FY15 | FY16 | | |
| | | | |
| | | | |

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------------|------------------|
| FY15 | FY16 | FY17 | | |
| | | | | |
| | | | | |

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY15 | FY16 | FY17 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------|-------------|-------------|------------------------------|--------------------------------------|--------------------------|
| Total | | | | | | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

BILL SUMMARY

Synopsis: The Senate Judiciary Committee Substitute for SB 352 amends Section 62-6-26 NMSA 1978 to allow the Public Regulation Commission (PRC) to approve special rates or tariffs for utilities that do not have excess capacity if 1) the rates approved are not lower than the “incremental costs” of providing service to the economic development rate customer as determined by the PRC and 2) the economic development rate approved for any customer lasts no longer than four (4) years, except that the PRC may approve the rate for up to twelve (12) additional months. The bill defines “incremental costs” as at least including 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.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

SJC/CS/SB 352 allows utilities without excess capacity costs to offer discounted, economic development rates to certain customers. It requires the PRC to determine the “incremental costs” for providing service to those customers. As defined in the bill, incremental costs would include, at a minimum, fuel and purchased power costs, costs recoverable under 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 bill requires the inclusion in these rates of fuel and purchased power costs, certain renewable costs, certain energy efficiency costs and the direct costs of facilities that if not included in the economic development rate would be recovered from all other customer classes, including residential and small business. However, the bill is unclear whether any other costs not recovered from the economic development rate customer would be shifted to other customers, including residential and small business.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

From the AG's perspective of protecting the interests of residential and small commercial customers it would be helpful if an amendment were added to make it clear that in no event should costs which are not recovered from economic development rate customers be shifted to other customers. This could be accomplished by inserting a new first sentence in Subsection E of the Bill on page 5, as follows:

"A utility may not collect from its other customers any deficit in revenues or other costs incurred from its economic development rate customers."