

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE MEMORIAL 17

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

A MEMORIAL

REQUESTING THE PUBLIC REGULATION COMMISSION TO REPORT ON THE ALLOCATION AND RECOVERY OF ACCESS FEES, CHARGES AND TRESPASS FINES PAID BY THE ELECTRIC DISTRIBUTION COOPERATIVES TO ANY NATIVE AMERICAN GOVERNMENTAL ENTITY AND TO INCREASE AWARENESS OF RECENT DEVELOPMENTS IN NATIVE AMERICAN ACCESS AGREEMENTS AFFECTING THE COOPERATIVES' ABILITY TO PROVIDE ELECTRICITY AT THE LOWEST FEASIBLE COST.

WHEREAS, New Mexico's electric distribution cooperatives are the primary source of electric power for rural communities throughout the state, many of which are economically depressed; and

WHEREAS, the cost of monthly utility bills has increased steadily over the years and has become increasingly difficult for many customers to afford during difficult economic

1 circumstances; and

2 WHEREAS, the electric distribution cooperatives are
3 not-for-profit entities owned and operated by its members; and

4 WHEREAS, the primary obligation that electric cooperatives
5 owe their members is to provide reliable service at the lowest
6 feasible cost; and

7 WHEREAS, many governmental entities, including Indian
8 nations, tribes and pueblos, require the electric distribution
9 cooperatives to pay fees, other charges and trespass fines for
10 access to power lines and other related utility facilities to,
11 over and across lands subject to the jurisdiction of these
12 governmental entities; and

13 WHEREAS, these access fees, charges and trespass fines
14 impose burdensome costs passed directly on to all members,
15 including those on fixed incomes, including Native Americans;
16 and

17 WHEREAS, the failure to pay the fees, charges and fines
18 imposed by governmental entities for access to, over and across
19 lands within the jurisdiction of the governmental entity
20 imposing such fee, charge or fine will result in the electric
21 distribution cooperative being subject to penalties that must
22 be recovered from members; and

23 WHEREAS, the public regulation commission has jurisdiction
24 over the rates charged by the electric distribution
25 cooperatives and must determine fair, just and reasonable rates

1 to all consumers; and

2 WHEREAS, many members have complained to the public
3 regulation commission about the fairness of having to pay rates
4 that include access fees, charges and trespass fines imposed by
5 governmental entities, notably Indian nations, tribes and
6 pueblos; and

7 WHEREAS, the Indian nations, tribes and pueblos are
8 separate sovereign entities authorized under federal law to
9 impose access fees, charges and trespass fines without limit
10 for certain types of utility facilities;

11 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
12 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the public
13 regulation commission be requested to maintain policies
14 consistent with a fair and reasonable methodology for the
15 allocation of access fees, charges and trespass fines paid by
16 the electric distribution cooperatives to any governmental
17 entity, including Indian nations, tribes and pueblos; and

18 BE IT FURTHER RESOLVED that the public regulation
19 commission be requested to report to the appropriate committee
20 appointed by the legislative council and to the congressional
21 delegation on its policies relating to the recovery and the
22 allocation of Native American access costs by electric
23 distribution cooperatives and whether any changes in law are
24 recommended to protect the electric cooperatives' obligation to
25 provide adequate service at the lowest feasible cost; and

.196472.1

[bracketed material] = delete

1 BE IT FURTHER RESOLVED that copies of this memorial be
2 transmitted to the public regulation commissioners and to the
3 New Mexico congressional delegation.

4 - 4 -
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[bracketed material] = delete