

HOUSE HEALTH AND GOVERNMENT AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 488

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO PUBLIC UTILITIES; ENACTING A SECTION OF CHAPTER 62,
ARTICLE 10 NMSA 1978 TO MANDATE THAT THE PUBLIC REGULATION
COMMISSION ORDER PUBLIC UTILITIES TO PAY THE LEGAL COSTS AND
FEES OF CERTAIN INTERVENORS IN PUBLIC UTILITY HEARINGS.

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

SECTION 1. A new section of Chapter 62, Article 10 NMSA
1978 is enacted to read:

"~~[NEW MATERIAL]~~ PUBLIC UTILITY HEARINGS--PUBLIC UTILITY TO
PAY LEGAL COSTS AND FEES OF CERTAIN INTERVENORS.--

A. In a matter before the commission that relates
to public utilities, the commission shall order a public
utility to pay a customer reasonable advocate's fees,
reasonable expert witness fees and other reasonable costs of
preparation for and participation in a hearing pursuant to

.186088.1

underscored material = new
[bracketed material] = delete

1 Chapter 62, Article 10 NMSA 1978 when:

2 (1) the customer intervenes in a public
3 utility matter pursuant to that article;

4 (2) the commission finds that the customer has
5 made a substantial contribution to the adoption of the
6 commission's decision in the matter;

7 (3) the customer demonstrates to the
8 commission that, without an award of fees or costs, the
9 customer would endure significant financial hardship; and

10 (4) the customer complies with commission
11 rules regarding notice of intent to claim compensation,
12 demonstration of substantial contribution to the outcome,
13 demonstration of potential financial hardship and any other
14 procedures that the commission determines by rule necessary to
15 an equitable reimbursement of costs and fees pursuant to this
16 subsection.

17 B. The commission shall adopt rules to provide for
18 compensation of customers who intervene in public utility
19 matters pursuant to Chapter 62, Article 10 NMSA 1978, including
20 procedures:

21 (1) for providing notice of intent to claim
22 compensation;

23 (2) by which the commission or customers may
24 demonstrate that a customer has made a substantial contribution
25 to the outcome of a proceeding filed pursuant to that article;

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1 (3) for demonstrating potential financial
2 hardship; and

3 (4) any other procedures that the commission
4 determines by rule necessary to an equitable reimbursement of
5 costs and fees pursuant to this subsection.

6 C. In hearings before the commission that relate to
7 public utilities, where the office of the attorney general has
8 made a substantial contribution to the commission's final
9 determination of the matter, the office of the attorney general
10 shall be entitled to seek compensation for all reasonable
11 expert fees incurred for participation in the hearing. The
12 office of the attorney general's presence in a hearing does not
13 preclude other intervenors from recouping legal costs and fees
14 if they otherwise qualify to recoup these costs and fees.

15 D. As used in this section:

16 (1) "advocate" means a person who:

17 (a) appears on behalf of a customer in
18 favor of or in opposition to a matter before the commission
19 that relates to public utilities; or

20 (b) is an attorney, a consultant, a
21 proponent, a customer or any person who contributes to or
22 represents an intervenor's actions;

23 (2) "customer" means an individual or entity
24 that:

25 (a) is a residential or small business

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1 consumer or subscriber of a public utility that is subject to
2 hearings pursuant to Chapter 62, Article 10 NMSA 1978; or

3 (b) represents the interests of an
4 individual described in Subparagraph (a) of this paragraph to
5 represent the interests of that person in a hearing pursuant to
6 Chapter 62, Article 10 NMSA 1978;

7 (3) "small business" means a business entity,
8 including any affiliate of that entity, that is independently
9 owned and operated and employs the equivalent of fifty or fewer
10 full-time employees; and

11 (4) "substantial contribution" means a
12 contribution to proceedings that the commission deems to have
13 substantially assisted the commission in reaching its decision
14 through contentions or policy or procedural recommendations
15 that are presented in a matter filed pursuant to Chapter 62,
16 Article 10 NMSA 1978."