SB 320-FN - AS INTRODUCED

2024 SESSION

24-2931
10/06

SENATE BILL ***320-FN***

AN ACT requiring the public utilities commission to establish a gas and electric performance incentive mechanism.

SPONSORS: Sen. Watters, Dist 4; Sen. Perkins Kwoka, Dist 21; Rep. McGhee, Hills. 35; Rep. McWilliams, Merr. 30; Rep. Cormen, Graf. 15

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill requires the public utilities commission to develop a performance incentive mechanism for the approval of electric and gas utility rates.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

24-2931
10/06

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT requiring the public utilities commission to establish a gas and electric performance incentive mechanism.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Declaration of Purpose. Cost of service utility regulation is a traditional approach used by regulatory authorities to determine electric and gas rates. Under this model, utilities are allowed to recover their operating expenses and capital investments from their customers. While this system has benefits, such as providing stable revenue for utilities and contributing to consistent service, it can and does also contribute to higher and/or volatile electric and gas rates. To address these challenges, regulatory authorities and utilities worldwide and in several US states are exploring alternative rate-setting mechanisms, such as performance-based regulation. The goal of these alternative regulatory mechanisms is to incentivize utilities to improve their operational efficiency, customer service, and overall performance, while also aligning their incentives with the broader goals of society. Unlike traditional cost of service regulation, where utilities are reimbursed for their costs and guaranteed a return on investments, performance-based regulation focuses on outcomes and encourages utilities to achieve specific targets and metrics. This approach can lead to improved service quality, cost savings, innovation, and a more sustainable and resilient energy sector.

2 Supervisory Power of Department of Energy and Public Utilities Commission; Performance Incentive Mechanisms. RSA 374:3-a is repealed and reenacted to read as follows:

374:3-a Performance Incentive Mechanisms.

I. No later than one year following the effective date of this section, the commission shall open an adjudicative proceeding to establish performance incentive mechanisms that directly tie electric and gas utility revenues to achievement on performance metrics.

II. In establishing performance incentive mechanisms, the public utilities commission shall consider:

(a) Electric rate affordability and volatility risk;

(b) Optimization of utility asset utilization rates;

(c) Maintenance and improvement of service reliability and safety;

(d) Peak load reduction attributable to demand response programs;

(e) Rapid integration of distributed energy resources;

(f) Timely execution of competitive procurement and third-party interconnection;

(g) Adoption of time-of-use rates and other demand flexibility strategies;

(h) Customer engagement and satisfaction;

(i) Public access to utility system information, including but not limited to public access to electric system planning data and aggregated customer energy usage data, and individual access to granular information about one's own energy usage data; and

(j) Fair compensation for utility employees.

III. As part of the adjudicative proceeding, the commission shall establish implementation timelines and deadlines for the adoption of the performance incentive mechanisms for each electric and gas utility. The commission shall apply the performance metrics to each utility as the public interest requires.

IV. In determining the public interest, the commission shall consider for each electric and gas utility, the following:

(a) Baseline performance on each metric.

(b) Existing infrastructure.

(c) Existing data systems and capabilities.

(d) Timing of the utilities' last rate case.

V. The commission shall issue a final decision in the adjudicative proceeding required by this section within 18 months of the commencement of the proceeding. Thereafter, the commission shall conduct an adjudicative proceeding to update, revise, and modify its previously approved performance incentive mechanisms at least every four years, or as the public interest requires.

378:56 Application of Performance Incentive Mechanism to Retail Rates.

I. Notwithstanding any provision of this chapter to the contrary, on and after the date the commission adopts its initial set of performance incentive metrics pursuant to RSA 374:3-a, the commission shall consider and implement the performance incentive mechanisms approved pursuant to that section whenever the commission investigates new and higher rates, fares, charges, or prices proposed by an electric or gas utility pursuant to RSA 378:5 or whenever the commission fixes the rates of any such utility pursuant to RSA 378:7.

II. In connection with seeking new and higher rates, fares, charges, or prices, an electric or gas utility may propose a multi-year rate plan that includes the performance incentives adopted by the commission pursuant to RSA 374:3-a as a mechanism for varying any initial revenue requirement determined by the commission to be just and reasonable in such rate proceeding. If a utility declines to propose such a multi-year rate plan the commission shall develop one on its own motion.

III. In a proceeding subject to this section, the commission shall adapt its approved performance incentive metrics to the circumstances of the subject utility so as to advance the objectives of such mechanisms set forth in paragraph II.

IV. No alternative rate plan approved pursuant to this section shall be applicable for longer than four years after the date on which the plan becomes effective as approved by the commission. An electric or gas utility operating pursuant to a multi-year rate plan shall submit a proposed new plan at least one year prior to the expiration date of a current plan, which the commission shall then consider pursuant to the provisions of this chapter.

3 Effective Date. This act shall take effect 60 days after its passage.

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SB 320-FN- FISCAL NOTE
AS INTRODUCED

AN ACT requiring the public utilities commission to establish a gas and electric performance incentive mechanism.

FISCAL IMPACT: [X] State [X] County [X] Local [ ] None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	**FY 2025**	**FY 2026**	**FY 2027**
Revenue	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Revenue Fund(s)	Utility Assessment (RSA 363-A)			
Expenditures	$0	PUC costs of $391,769 Indeterminable impact on state utility expenditures	PUC costs of $396,014 Indeterminable impact on state utility expenditures	PUC costs of $396,014 Indeterminable impact on state utility expenditures
Funding Source(s)	Utility Assessment (RSA 363-A) Various Government Funds			
Appropriations	$0	$0	$0	$0
Funding Source(s)	None			

• Does this bill provide sufficient funding to cover estimated expenditures? [X] No
• Does this bill authorize new positions to implement this bill? [X] No

Estimated Political Subdivision Impact - Increase / (Decrease)				
	FY 2024	**FY 2025**	**FY 2026**	**FY 2027**
County Revenue	$0	$0	$0	$0
County Expenditures	$0	Indeterminable impact on utility expenditures	Indeterminable impact on utility expenditures	Indeterminable impact on utility expenditures
Local Revenue	$0	$0	$0	$0
Local Expenditures	$0	Indeterminable impact on utility expenditures	Indeterminable impact on utility expenditures	Indeterminable impact on utility expenditures

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill, as introduced, as it is awaiting information from the Department of Energy. The Department of Energy was initially contacted on 11/30/23 for a fiscal note worksheet, with follow-up contact made on 12/20/23. When completed, the fiscal note will be forwarded to the Senate Clerk's Office.

METHODOLOGY:

This bill would require the Public Utilities Commission (PUC) to develop a performance incentive mechanism for the approval of electric and gas utility rates. The PUC indicates this bill would require the PUC to open an adjudicative proceeding to establish performance incentive mechanisms for regulated electric and gas utilities after considering the factors listed in the bill. For each electric and gas utility, the PUC would establish implementation timelines and deadlines for adopting the mechanisms. The Commission would be required to issue a final decision within 18 months of opening this proceeding. Thereafter, it would be required to conduct an adjudicative proceeding every 4 years, or as public interest requires, to update, revise, and modify the established performance incentive mechanisms. The PUC states there are currently three regulated electric utilities: Public Service Company of New Hampshire d/b/a Eversource Energy; Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty; and Unitil Energy Systems, Inc.; and two regulated gas utilities: Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty; and Northern Utilities, Inc.; to which this provision would apply. After the performance incentive mechanisms have been the established, proposed RSA 378:56, would require the PUC to implement them whenever an electric or gas utility proposes new and higher rates, fares, charges or prices and when making other rate determinations. When proposing rates, an electric or gas utility would also be entitled to propose a multi-year rate plan. If a utility does not exercise its discretion to do so, the bill states that the PUC shall develop one on its own motion. Any approved alternative plan would be in effect no longer than four years, and a utility operating under a multi-year rate plan must submit a proposed new plan at least one year prior to the expiration of the existing plan.

The PUC estimates additional staff and a consultant would be needed to implement the provisions of the bill, which would obligate the PUC to develop multi-year rate plans if a utility declined to do so. The PUC estimated the cost for such additional resources, including one Senior Advisor, one Utility Analyst IV and a consultant, would be $391,769 in FY 2025, $396,014 in FY 2026 and $396,014 in FY 2027. Such costs would be funded by utility assessments pursuant to RSA 363-A.

The PUC states effect of the bill, if any, on utility rates and on state, county and local government expenditures is indeterminable.

It is assumed that any fiscal impact would occur after FY 2024.

AGENCIES CONTACTED:

Department of Energy and Public Utilities Commission