

**PROPOSED REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA**

LCB File No. R053-15

September 14, 2015

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1, 2, 4 and 5, NRS 703.025, 704.210, 704.7821 and 704.7828; §3, NRS 703.025, 704.210, 704.7825 and 704.7828; §6, NRS 701B.200, 703.025, 704.210, 704.7821 and 704.7828.

A REGULATION relating to energy; authorizing a utility provider to apply to the Public Utilities Commission of Nevada for approval to sell portfolio energy credits; revising provisions governing the portfolio standard for renewable energy; revising provisions relating to the sale of portfolio energy credits; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Public Utilities Commission of Nevada to establish a portfolio standard for each provider of electric service and to adopt regulations that establish a system of portfolio energy credits to enable each provider to comply with its portfolio standard. (NRS 704.7821) In 2013, the Legislature revised the portfolio standard for providers of electric service to limit the use of savings achieved from energy efficiency measures by a provider to satisfy the portfolio standard. (Section 6 of chapter 423, Statutes of Nevada 2013, p. 2318) This regulation revises the provisions governing the portfolio standard to comply with that limitation. **Section 1** of this regulation authorizes a utility provider to submit an application to the Commission for approval of the sale of portfolio energy credits. **Section 2** of this regulation excludes certain kilowatt-hours from the calculation of kilowatt-hours that a provider generates, acquires or saves from portfolio energy systems or efficiency measures. **Section 3** of this regulation revises the information a provider must submit in an annual report to the Commission. **Section 4** of this regulation revises the information the Commission will include in the order stating whether a provider complied with its portfolio standard. **Section 5** of this regulation revises the information which must be included in an application to participate in the system of portfolio energy credits. **Section 6** of this regulation revises the provisions governing the certification of portfolio energy credits by the Administrator appointed by the Commission.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto a new section to read as follows:

1. A utility provider may submit an application to the Commission for approval of a sale of portfolio energy credits if:

(a) The utility provider possesses more than 10 percent of the amount of portfolio energy credits necessary to comply with its portfolio energy standard for the subsequent calendar year; and

(b) The amount of portfolio energy credits to be sold constitutes less than 50 percent of the portfolio energy credits in excess of the amount necessary to comply with the portfolio standard for the subsequent calendar year.

2. If a utility provider submits an application pursuant to this section, the Commission will provide notice of the application to the Bureau of Consumer Protection and any party that participated as an intervener in the proceedings of the utility provider's most recent resource plan filed pursuant to subsection 1 of NRS 704.741. An interested party may file with the Commission any written comments regarding the application within 10 business days after receipt of such notice.

3. The Commission will approve or deny an application submitted pursuant to this section within 60 days after receipt of the application.

4. Approval by the Commission of an application to sell portfolio energy credits submitted pursuant to this section constitutes a finding that the decision to sell and the price received for the sale are prudent.

5. A sale of portfolio energy credits which is not approved by the Commission pursuant to this section is presumed to be prudent if, at the time of the sale, the utility provider has more than 25 percent of the amount of portfolio energy credits necessary to comply with the portfolio standard for the subsequent calendar year.

Sec. 2. NAC 704.8875 is hereby amended to read as follows:

704.8875 In calculating the total number of kilowatt-hours that a provider generates, acquires or saves from portfolio energy systems or efficiency measures during a compliance year, the provider ~~may~~:

1. May use the following kilowatt-hours if the provider has complied with all requirements for inclusion of the kilowatt-hours in its calculation:

~~11-1~~ *(a)* Any kilowatt-hours generated by the provider from its own renewable energy systems during the compliance year;

~~12-1~~ *(b)* Any kilowatt-hours acquired or saved by the provider during the compliance year pursuant to long-term portfolio energy credits contracts, long-term renewable energy contracts, short-term portfolio energy credits contracts, short-term renewable energy contracts or energy efficiency contracts;

~~13-1~~ *(c)* Any equivalent kilowatt-hours attributable to the provider during the compliance year from solar thermal systems;

~~14-1~~ *(d)* Any kilowatt-hours that are deemed to be electricity that the provider generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to paragraph (a) of subsection 3 of NRS 704.775, subsection 3 of NRS 704.7821 or subsection 3 of NRS 704.78213 and any excess kilowatt-hours fed back to the provider during the compliance year from net metering systems used by customer-generators pursuant to NRS 704.766 to 704.775, inclusive;

~~15-1~~ *(e)* Any kilowatt-hours saved during the compliance year as a result of an energy efficiency measure, subject to the limitations set forth in NRS 704.7821 and 704.78213, as applicable;

~~16.1~~ (f) Any kilowatt-hours that the provider is authorized to carry forward from previous compliance years; and

~~17.1~~ (g) Any kilowatt-hours derived from portfolio energy credits issued to the provider by the Commission pursuant to NRS 701B.290, 701B.640 or 701B.870.

2. May not use the following kilowatt-hours:

(a) Any kilowatt-hour sold as a result of customer participation in a voluntary option to purchase all or a portion of the customer's energy from renewable resources; and

(b) Any kilowatt-hour sold pursuant to paragraphs (b) and (c) of subsection 2 of NRS 704.7828.

Sec. 3. NAC 704.8879 is hereby amended to read as follows:

704.8879 1. Beginning with compliance year 2004, not later than April 1 of each compliance year, each provider shall submit to the Commission an annual report that sets forth all the information required by this section.

2. The annual report must set forth:

(a) The capacity of each renewable energy system owned, operated or controlled by the provider, the total number of kilowatt-hours generated by each such system during the most recently completed compliance year and the percentage of that total amount which was generated directly from renewable energy.

(b) Whether, during the most recently completed compliance year, the provider began construction on, acquired or placed into operation any renewable energy system and, if so, the date of any such event.

(c) The total number of kilowatt-hours sold by the provider to its retail customers in this State during the most recently completed compliance year.

(d) The total number of kilowatt-hours that the provider generated, acquired or saved from portfolio energy systems or efficiency measures during the most recently completed compliance year and, from that total number of kilowatt-hours, subtotals for the number of kilowatt-hours:

(1) Generated or saved by the provider from its own portfolio energy systems or efficiency measures;

(2) Acquired by the provider pursuant to long-term portfolio energy credits contracts;

(3) Acquired by the provider pursuant to long-term renewable energy contracts;

(4) Acquired by the provider pursuant to short-term portfolio energy credits contracts;

(5) Acquired by the provider pursuant to short-term renewable energy contracts;

(6) Acquired or saved by the provider pursuant to energy efficiency contracts;

(7) Attributable to the provider from solar thermal systems;

(8) Fed back to the provider from net metering systems used by customer-generators pursuant to NRS 704.766 to 704.775, inclusive;

(9) Deemed to be electricity that the provider generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to paragraph (a) of subsection 3 of NRS 704.775; and

(10) Saved by the provider as a result of energy efficiency measures installed at service locations of residential customers of the provider for the purposes of paragraph (b) of subsection 2 of NRS 704.7821.

(e) *The total number of kilowatt-hours that the provider:*

(1) Sold as a result of customer participation in a voluntary option to purchase all or a portion of the customer's energy from renewable resources; and

(2) Sold pursuant to paragraphs (b) and (c) of subsection 2 of NRS 704.7828.

~~(f)~~ (f) The total number of kilowatt-hours that the provider:

- (1) Carried forward as excess from the previous compliance years;
- (2) Intends to carry forward as excess from the most recently completed compliance year;
- (3) Intends to carry forward as excess from previous compliance years, indicating the amount from each separate year;
- (4) Carried forward as deficiencies from previous compliance years;
- (5) Intends to carry forward as deficiencies from the most recently completed compliance year; and
- (6) Intends to carry forward as deficiencies from previous compliance years, indicating the amount from each separate year.

~~(g)~~ (g) The estimated number of kilowatt-hours that the provider expects to sell to its retail customers in this State during the current compliance year.

~~(h)~~ (h) The estimated number of kilowatt-hours that the provider must generate, acquire or save from portfolio energy systems or efficiency measures to comply with its portfolio standard for the current compliance year, as calculated by the provider pursuant to NAC 704.8877.

~~(i)~~ (i) If the provider is a utility provider, the estimated costs for the utility provider to comply with its portfolio standard for the current compliance year. If appropriate, the utility provider must report such estimated costs for each major type of cost, such as general and administrative costs and costs for purchased power.

3. In the annual report, the provider must make an affirmative showing that the provider complied with its portfolio standard during the most recently completed compliance year. If the provider did not comply with its portfolio standard during the most recently completed compliance year, in the annual report the provider must:

- (a) Make a detailed explanation for its noncompliance; and
- (b) Provide any information that would support an exemption for the provider from any administrative fine or other administrative action.

4. If, to comply with its portfolio standard during the most recently completed compliance year, the provider acquired any kilowatt-hours from a renewable energy system that is not owned, operated or controlled by the provider, the annual report must include an attestation from the owner or operator of the renewable energy system that the energy represented by those kilowatt-hours:

- (a) Has not been and will not be sold or otherwise exchanged for compensation or used for credit in any other state or jurisdiction; and
- (b) Has not been and will not be included within a blended energy product certified to include a fixed percentage of renewable energy in any other state or jurisdiction.

Sec. 4. NAC 704.8881 is hereby amended to read as follows:

704.8881 1. Not later than 30 days after the date on which a provider submits its annual report, the Commission will issue an order stating whether the provider complied with its portfolio standard during the most recently completed compliance year.

2. If the Commission determines that the provider complied with its portfolio standard during the most recently completed compliance year, the Commission will determine whether the provider is authorized to carry forward any excess kilowatt-hours pursuant to NRS 704.7828. If the Commission determines that the total number of kilowatt-hours which the provider generated, acquired or saved from portfolio energy systems or efficiency measures during the most recently completed compliance year exceeded the total number of kilowatt-hours which the provider needed to comply with its portfolio standard for that compliance year:

(a) The Commission will state in its order the number of excess kilowatt-hours which the provider is authorized to carry forward from that compliance year; ~~and~~

(b) The provider may use those excess kilowatt-hours to comply with its portfolio standard for any following compliance year ~~and~~ ; and

(c) If the provider is a utility provider, the Commission will state in its order the number of excess kilowatt-hours which are:

(1) In excess of 10 percent but less than 25 percent of the amount of portfolio energy credits projected to be necessary to comply with the portfolio standard for the current compliance year based upon the estimated number of kilowatt-hours the utility provider expects to sell; and

(2) In excess of 25 percent of the amount of portfolio energy credits projected to be necessary to comply with the portfolio standard for the current compliance year based upon the estimated number of kilowatt-hours the utility provider expects to sell.

3. If the Commission determines that the provider did not comply with its portfolio standard during the most recently completed compliance year, the Commission will:

(a) State in its order the number of kilowatt-hours by which the provider failed to comply with its portfolio standard; and

(b) Issue a notice of noncompliance and schedule a hearing on the matter.

4. At the hearing, the provider has the burden to prove that it complied with its portfolio standard during the most recently completed compliance year.

5. Except as otherwise provided in NAC 704.8831 to 704.8899, inclusive, if, after the hearing, the Commission determines that the provider did not comply with its portfolio standard

during the most recently completed compliance year, and the Commission has not exempted the provider pursuant to NRS 704.7821 or 704.78213, the Commission will:

(a) Proceed pursuant to NRS 704.7828; and

(b) In any order requiring a provider to carry forward a deficiency, set forth the terms and conditions for resolution of the deficiency, except that a deficiency will not be applied to any determination of compliance with the portfolio standard set forth in NRS 704.7821 or 704.78213, as applicable, for subsequent compliance years.

6. While resolving any deficiency, a provider shall continue to meet its portfolio standard for the current compliance year.

7. In determining whether to impose an administrative fine or take other administrative action against the provider, the Commission will consider whether the provider should have built its own renewable energy systems to comply with its portfolio standard.

8. *If a utility provider sells any portfolio energy credits pursuant to paragraph (b) or (c) of subsection 2 of NRS 704.7828 in any calendar year in which the Commission determines that the utility provider did not comply with its portfolio standard and the sale caused the utility provider not to comply with its portfolio standard, the Commission will not impose an administrative fine on the utility provider if the requirements of subsection 5 of NRS 704.7828 are satisfied.*

9. If the Commission imposes an administrative fine that is assessed against a provider on each kilowatt-hour by which the provider failed to comply with its portfolio standard, the Commission will calculate the administrative fine, on a per kilowatt-hour basis:

(a) For a utility provider, in an amount that is not less than the difference between the just and reasonable average cost per kilowatt-hour to acquire or save electricity pursuant to

renewable energy contracts or energy efficiency contracts and the overall average cost per kilowatt-hour to generate, acquire and save electricity that is incurred by the utility provider.

(b) For a nonutility provider, in an amount that is not less than the difference between the just and reasonable average cost per kilowatt-hour to acquire or save electricity pursuant to renewable energy contracts or energy efficiency contracts and the overall average cost per kilowatt-hour to generate, acquire and save electricity that is incurred by a utility provider designated by the Commission.

Sec. 5. NAC 704.8921 is hereby amended to read as follows:

704.8921 1. A portfolio energy system or efficiency measure or an owner of portfolio energy credits who wishes to participate in the system of portfolio energy credits established pursuant to NRS 704.7821 or 704.78213, as applicable, must apply to, and be approved by, the Commission to participate in the system.

2. The application must include:

(a) The legal name of the applicant and all other names under which the applicant is doing business in the United States.

(b) The telephone number, mailing address and electronic mail address of the applicant.

(c) A copy of each business license and certificate issued by this State or any local government of this State which authorizes the applicant to conduct business in this State.

(d) The name, telephone number, address and electronic mail address of the designated representative, if the applicant is a renewable energy system.

(e) A map indicating the location of the portfolio energy system or efficiency measure and an electrical one-line diagram indicating the system's interconnection points with the local distribution or transmission system and the location of all generation units, if applicable.

- (f) The type of portfolio energy system or efficiency measure.
- (g) The rating of the electrical capacity of the renewable energy system.
- (h) The date the portfolio energy system *was placed into operation* or efficiency measure was ~~placed in service.~~ *installed.*
- (i) *If the applicant is a provider of electric service, the date the applicant first used electricity generated or acquired from the renewable energy system to satisfy its portfolio standard.*
- (j) The estimated yearly generation or savings of electricity by the portfolio energy system or efficiency measure in kilowatt-hours.
- ~~(k)~~ (k) *If the applicant is a portfolio energy system, the estimated yearly generation of electricity that will be used by the portfolio energy system for its basic operations. If the portfolio energy system generates electricity from geothermal energy, the estimated yearly generation that will be used by the portfolio energy system for the extraction and transportation of geothermal brine or used to pump and compress geothermal brine.*
- (l) The location and type of metering used by the portfolio energy system or efficiency measure, including either the identification of primary metering and secondary metering at multiple sites or a measurement and verification plan.
- ~~(m)~~ (m) If fossil fuel is used as an energy source to generate electricity, the percentage that fossil fuel bears to the total input of the renewable energy system. If the percentage of fossil fuel is more than 2 percent of the total input, as measured in British thermal units, a statement that indicates whether separate metering is practical.
- ~~(n)~~ (n) Proof that the applicant is a portfolio energy system or efficiency measure or an owner of portfolio energy credits.

~~{(m)}~~ (o) A signature page signed by an authorized agent of the portfolio energy system or efficiency measure which states that the portfolio energy system or efficiency measure consents to the jurisdiction of the Commission for the purposes of participating in the system of portfolio energy credits.

3. If there is a change in any information contained in the application, the applicant shall notify the Commission and provide the revised information within 30 days after the change in the information occurs.

Sec. 6. NAC 704.8927 is hereby amended to read as follows:

704.8927 1. Except as otherwise provided in NAC 704.8893, electricity generated by a renewable energy system which is authorized to participate in the system of portfolio energy credits must be metered and the renewable energy system shall submit meter readings quarterly to the Commission.

2. Except as otherwise provided in subsections 3 to ~~{12}~~ 13, inclusive, the Administrator shall certify portfolio energy credits to a portfolio energy system or efficiency measure for:

(a) The net ~~{metered}~~ output of electricity in kilowatt-hours delivered to the transmission system or the distribution system and sold to a provider of electric service. The net ~~{metered}~~ output must be provided to the Administrator by the entity that owns, operates or controls the meters used to monitor the net ~~{metered}~~ output of electricity of the renewable energy system.

(b) The ~~{difference between the metered generation of electricity in kilowatt hours and the net metered output of electricity set forth in paragraph (a)}~~ *amount of electricity used by the portfolio energy system for its basic operations as set forth in NRS 704.78215, if the system:*

(1) Is placed into operation on or before December 31, 2015; or

(2) Is placed into operation on or after January 1, 2016, and the provider entered into a contract for the purchase of electricity generated by the portfolio energy system on or before December 31, 2012.

(c) The amount of electricity used by a portfolio energy system that generates electricity from geothermal energy for the extraction and transportation of geothermal brine or used to pump and compress geothermal brine.

↪ Unless otherwise provided for in a contract for renewable energy, the portfolio energy credits certified by the Administrator pursuant to ~~the paragraph~~ *paragraphs (b) and (c)* must be awarded to the owner of the renewable energy system.

3. The Administrator shall certify portfolio energy credits for the line loss factor of:

(a) A customer-maintained distributed renewable energy system *placed into operation on or before December 31, 2015*, by multiplying the metered number of kilowatt-hours generated and used by the customer who is served by the customer-maintained distributed renewable energy system by a factor of 1.05; and

(b) An energy efficiency measure by multiplying the number of kilowatt-hours saved by the energy efficiency measure by a factor of 1.05.

4. ~~The~~ *For a solar energy system, as defined in NRS 701B.150, placed into operation on or before December 31, 2015, the* Administrator shall certify portfolio energy credits for participants in the Solar Energy Systems Incentive Program created in NRS 701B.240 by multiplying the actual kilowatt-hours produced by the solar renewable energy system by a factor of 2.4.

5. ~~The~~ *For a solar photovoltaic system, as described in NRS 704.7822, placed into operation on or before December 31, 2015, the* Administrator shall certify portfolio energy

credits ~~for solar photovoltaic systems described in NRS 704.7822~~ by multiplying the actual kilowatt-hours produced by the solar renewable energy system by a factor of 2.4.

6. The Administrator shall certify portfolio energy credits for a system that uses a reverse polymerization process described in NRS 704.7823 by multiplying the actual kilowatt-hours produced by the renewable energy system by a factor of 0.7.

7. The Administrator shall certify portfolio energy credits for electricity saved by a utility provider or provider of new electric resources during its peak load periods, as defined in the applicable approved tariffs, from energy efficiency measures described in NRS 704.7802, by multiplying each kilowatt-hour of electricity saved by the utility provider during its peak load period from energy efficiency measures by a factor of 2.0.

8. A solar thermal energy system may use a thermal energy meter to measure the amount of energy generated by the system. The system will be credited with 1 kilowatt-hour of electricity generated for each 3,412 British thermal units of heat generated by the solar thermal energy system.

9. Except as otherwise provided in this subsection, the energy, measured in British thermal units, generated by a geothermal energy system providing heated water to one or more customers must be calculated as $(F \times T) \times 500$, less the system losses as calculated by a professional engineer and accepted by the Administrator, where:

(a) "F" equals the flow rate, measured in gallons per minute; and

(b) "T" equals the change in temperature across a heat exchanger or system, measured by the difference in temperature of the incoming fluid in degrees Fahrenheit and the temperature of the outgoing fluid in degrees Fahrenheit after it has passed through the heat exchanger or system.

↪ For heat exchangers used by end-use customers, it is assumed that no system losses occur, and no calculation of system losses by a professional engineer is required.

10. A net metering system will be credited annually with portfolio energy credits based upon the amount of metered electricity generated by the system or, if metering is not used, upon an estimate of the electricity generated by the net metering system by using the method of calculation designated by the Regulatory Operations Staff of the Commission for a solar energy system which does not use a meter to measure the generation of electricity of the system.

11. The portfolio energy credits generated by a net metering system must be assigned to the owner of the net metering system, unless the provisions of paragraph (a) of subsection 3 of NRS 704.775 apply, or another allocation of the portfolio energy credits is provided for in a written agreement between the utility provider and the owner of the net metering system.

12. If the Administrator is required by subsections 4 to 7, inclusive, to apply a multiplier in certifying portfolio energy credits for a portfolio energy system or efficiency measure and he or she determines that more than one multiplier may be applicable to the portfolio energy system or efficiency measure, the Administrator shall only apply the largest applicable multiplier in certifying the portfolio energy credits.

13. *The Administrator shall certify portfolio energy credits for electricity saved from energy efficiency measures only for the period during which a provider may use energy efficiency measures to comply with its portfolio standard in accordance with NRS 704.7821.*

14. *For the purposes of:*

(a) Paragraph (b) of subsection 2, the date on which a portfolio energy system is placed into operation shall be deemed to be the date on which the system is placed into commercial

operation and the system's capacity and estimated yearly generation must be measured by the system's capacity and estimated yearly generation on that date.

(b) Subsection 3, the date on which a customer-maintained distributed renewable energy system is placed into operation shall be deemed to be the date on which the system is installed on the premises of the customer and energized and the system's capacity and estimated yearly generation must be measured by the system's capacity and estimated yearly generation on that date.

(c) Subsection 4, the date on which a solar energy system is placed into operation shall be deemed to be the date on which the system is installed on the premises of the participant in the Solar Energy Systems Incentive Program and energized and the system's capacity and estimated yearly generation must be measured by the system's capacity and estimated yearly generation on that date.

(d) Subsection 5, the date on which a solar photovoltaic system is placed into operation shall be deemed to be the date on which the system is installed on the premises of a retail customer and energized and the system's capacity and estimated yearly generation must be measured by the system's capacity and estimated yearly generation on that date.

15. As used in this section:

(a) "Customer-maintained distributed renewable energy system" means a facility or energy system which:

- (1) Is used and maintained by an end-use customer;
- (2) Uses renewable energy to generate electricity;
- (3) Does not use the utility's system to transmit or distribute electricity; and
- (4) Uses a meter and other equipment to:

(I) Measure the electricity generated by the energy system; and

(II) Reduce part, but not more than all, of the electrical load of the customer.

(b) “Geothermal energy system” means an energy system that provides geothermally heated water to one or more customers and reduces the consumption of electricity or any fossil fuel.

(c) “Reverse polymerization process” has the meaning ascribed to it in NRS 704.7823.

(d) “Solar thermal energy system” means a renewable energy system that uses solar energy for the purpose of producing heat to reduce directly the consumption of electricity, natural gas or propane.