PROPOSED REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA

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PROPOSED REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA

PUCN Docket No. 19-06010

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AUTHORITY: Senate Bill No. 358 (2019), Nevada Revised Statutes ("NRS") 703.025 and 704.210, and the Nevada Administrative Code ("NAC"), Chapters 233B, 703, 704.

A REGULATION to implement Senate Bill No. 358 (2019).

Explanation – Matter in ***bold italics*** is new language; matter in ~~[omitted material]~~ is language to be omitted.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 1 to 15, inclusive, of this regulation.

NAC 704.XXX1 Request to Establish a Just and Reasonable Price for the Energy Produced by a Renewable Energy Facility

1. A utility may file with the Commission, as part of the plan required to be submitted pursuant to NRS 704.741 or an amendment thereto, a request for the Commission pursuant to NRS 704.752 to establish a just and reasonable price for the energy produced by a renewable energy facility to be owned by the utility.

2. A utility submitting a request pursuant to subsection 1 must include with the request, without limitation:

(a) A brief description of the renewable energy facility, including, but not limited to:

(1) the generating capacity of the renewable facility.

(2) the technical and operational characteristics of the renewable facility.

(3) the geographical location of the renewable facility.

(b) An acknowledgement by the utility that the utility will not include any capital investment and expenses associated with the renewable energy facility in the rate base and the revenue requirement of the utility in accordance with NRS 704.752;

(c) A request that the Commission exclude any capital investment and expenses associated with the renewable energy facility from the rate base and revenue requirement of the utility in accordance with NRS 704.752;

(d) A description of safeguards the utility will implement to monitor and ensure that all the initial and ongoing capital investment and expenses, including, but not limited to, costs relating to operating and maintenance, permitting, property rights acquisition, engineering, procurement, and construction, generator line extension, interconnection, internal utility labor and overhead, project management, depreciation, interest and related financing costs, and decommissioning associated

with the renewable energy facility will be excluded from the rate base and revenue requirement of the utility;

(e) Material terms for the generation and sale of electricity by the renewable energy facility, including without limitation, the price for the energy produced by the renewable energy facility owned by the utility and the term during which the utility may recover the just and reasonable price as established by the Commission for the energy produced by a renewable energy facility owned by the utility through the mechanism set forth in NRS 704.187;

(f) An identification and justification of the price to be paid for the energy produced by the renewable energy facility, as recommended by the utility, as just and reasonable;

(g) A brief description of the financing of the renewable energy facility, if applicable, including its effect on the capital structure and creditworthiness of the utility;

(h) A comparison of the rate impact on utility customers between utility ownership of the renewable energy facility pursuant to NRS 704.752 and inclusion of the renewable energy facility within the utility's rate base; and

(i) Any other data and information necessary to facilitate an evaluation of the utility's request.

Section 1.1. *Chapter 704 of NAC is hereby amended by adding thereto a new section to read as follows:*

NAC 704.XXX2 Commission Approval

1. In determining whether to grant the utility's request to establish a just and reasonable price, the Commission must consider a competitive market price. The Commission may determine a competitive market price for the energy produced by a renewable energy facility to be owned by the utility based on the following, without limitation:

(a) The utility's or another party's recommended price and performance terms and conditions as compared to the cost and performance terms and conditions of energy and ancillary services from all conforming, substantially similar technology bids received by the utility in reasonably contemporaneous renewable energy requests for proposals;

(b) Projections of market trends for the price of energy produced by similar renewable energy facilities;

(c) Relative performance capabilities of the renewable energy facility as compared with performance capabilities of the renewable energy facilities referenced in paragraphs (a) and (b);

(d) Relative design differences, including, but not limited to, size, between the renewable energy facility and the renewable energy facilities referenced in paragraphs (a) and (b); and

(e) Whether the energy and ancillary services produced from the company owned renewable facility are consistent with the resource needs of the utility and its customers.

2. *If the Commission approves the utility's request, the Commission must include in its order:*
   (a) *A provision that the utility must exclude any capital investment and expenses associated with the renewable energy facility from the rate base and revenue requirement of the utility in accordance with NRS 704.752;*
   (b) *Performance terms and conditions for the generation and sale of energy from the renewable energy facility owned by the utility;*
   (c) *The term during which the utility may recover the just and reasonable price as established by the Commission for the energy produced by a renewable energy facility owned by the utility through the mechanism set forth in NRS 704.187;*
   (d) *Any findings necessary to ensure that the renewable energy facility is not public utility property as defined in Section 168(i) of the Internal Revenue Code, 26 U.S.C § 168(i); and*
   (e) *A finding whether the utility has provided a valid comparison of the rate impact on utility customers between utility ownership of the renewable energy facility pursuant to NRS 704.752 and inclusion of the renewable energy facility within the utility's rate base.*
3. *If the Commission approves the utility's request, the utility shall include in its filings pursuant to NRS 704.187 sufficient detail to demonstrate compliance with the terms and conditions approved by the Commission.*
4. *If the Commission approves the utility's request, at least one year before the conclusion of the existing term, the utility must file a plan pursuant to NRS 704.741, or an amendment to such a plan, which includes a proposed disposition of the renewable energy facility following the conclusion of the term.*
5. *In order for the utility to recover a just and reasonable price for the energy produced by a renewable energy facility owned by the utility beyond the existing term, the utility must receive Commission approval for a request filed by the utility pursuant to NAC 704.XXX1.*

Section 1.2. Chapter 704 of NAC is hereby amended by adding thereto a new section to read as follows:

NAC 704.XXX3 Notice of Acquisition of a Renewable Energy Facility Pursuant to NRS 704.753:

1. *A utility that acquires an existing renewable energy facility or a renewable energy facility that is being developed pursuant to NRS 704.753 must provide a notice to the Commission which includes, without limitation:*
   (a) *The information required by paragraph (d) of subsection 2 of NAC 704.XXX1;*
   (b) *The information required by NRS 704.753; and*
   (c) *A document listing all surviving terms and conditions of the previously approved agreement for the purchase of the electricity, as approved by the Commission*

pursuant to NRS 704.751, which the utility assumes, including, but not limited to, the price of the electricity generated and the duration of the term.

2. ***At least one year before the conclusion of the existing term, the utility must file a plan pursuant to NRS 704.741, or an amendment to such a plan, which includes a proposed disposition of the renewable energy facility following the conclusion of the term.***
3. ***In order for the utility to recover a just and reasonable price for the energy produced by a renewable energy facility owned by the utility beyond the existing term, the utility must receive Commission approval for the request filed by the utility pursuant to NAC 704.XXX1.***

Sec. 2. NAC 704.101 is hereby amended to read as follows:

NAC 704.101 Deferred energy accounts: Required entries. (NRS 703.025, 704.110, 704.185, 704.187, 704.210, 704.7881)

1. Each electric utility and gas utility using deferred energy accounting shall maintain a deferred energy account. Entries must be made to the deferred energy account at the end of each month as follows:
   (a) For electric operations:
      (1) A debit entry or credit entry, if negative, to a subaccount of FERC Account No. 182.3, if the cumulative month-end balance is a debit, or a subaccount of FERC Account No. 254, if the cumulative month-end balance is a credit, equal to the cost of both fuel for electric generation and purchased power, reduced for revenues from off-system sales, distributed to the applicable jurisdiction by the ratio of the jurisdiction's contribution to the output to lines, less the amount of revenue derived by applying the base tariff energy rate to that month's applicable jurisdictional sales exclusive of interruptible irrigation sales.
      (2) A separate credit entry or debit entry, if negative, equal to the amount of revenue derived by applying the appropriate deferred energy accounting adjustment to that month's applicable jurisdictional sales, exclusive of interruptible irrigation sales.
      (3) A credit entry equal to the amount of revenue from interruptible irrigation sales.
      (4) A credit entry equal to the jurisdictional amount of any cash refund, including interest if applicable, received from suppliers of fuel or purchased power.
      (5) A separate debit entry or credit entry, if negative, equal to the product of the ending balance multiplied by one-twelfth of the authorized rate of return as provided in NAC 704.150.
      (6) A debit entry equal to the amount of any provided discount resulting from participation in the Economic Development Electric Rate Rider Program established pursuant to NRS 704.7875.
      (7) A credit entry equal to any amount recovered by order of the Commission pursuant to NRS 704.7879.

(8) A separate credit entry or debit entry, if negative, equal to the cost of electricity generated by a renewable energy facility owned by the utility calculated based on the just and reasonable price established by the Commission pursuant to NRS 704.752.

(b) For gas operations:

(1) A debit entry or credit entry to FERC Account No. 191, if negative, equal to the cost of purchased gas for the month distributed to applicable jurisdictional sales by the ratio of those jurisdictional sales to total sales, less the amount of the revenue derived by applying the base tariff energy rate to that month's applicable jurisdictional sales.

(2) A credit entry or debit entry, if negative, equal to the amount of revenue derived by applying the appropriate deferred energy accounting adjustment to that month's applicable jurisdictional sales.

(3) A credit entry equal to the jurisdictional amount of any cash refund, including interest if applicable, received from suppliers of purchased gas.

(4) A debit entry or credit entry, if negative, equal to the product of the ending balance multiplied by one-twelfth of the authorized rate of return as provided in NAC 704.150.

2. As used in this section, "output to lines" means the net generation by the system's own generation, plus purchased power and less energy applicable to off-system sales.

Sec. 3. NAC 704.195 is hereby amended to read as follows:

NAC 704.195 Monthly reports. (NRS 703.025, 704.110, 704.185, 704.187, 704.210)

1. Not later than 45 days after the end of each month in every deferred energy period, each electric utility and gas utility shall submit to the Commission a report containing all transactions and calculations affecting the deferred energy accounts. The monthly reports must include any other information or data required by the Commission to expedite or facilitate the deferred energy application or annual rate adjustment application and hearing necessary to clear the balances of deferred energy accounts.
2. Each electric utility shall submit in its monthly reports for electric operations the monthly cost of all energy generated and purchased, indicating:

(a) The number of megawatt-hours generated as to quantity, cost and type of fuel used in each generating unit;

(b) The number of megawatt-hours purchased and the cost, including demand charges, for each supplier by rate schedule or contract; [~~and~~]

(c) The number of megawatt-hours delivered by a renewable energy facility owned by the utility and the cost charged based on a just and reasonable price established by the Commission pursuant to NRS 704.752; and

(d) The basis of charges and data supporting those charges.

3. Each gas utility shall submit in its monthly reports for gas operations the monthly cost of all gas purchased, indicating:
   (a) The quantity and cost of gas purchased from each supplier by rate schedule or contract; and
   (b) The basis of the charges and the invoices supporting the charges.

Sec. 4. Chapter 704 of NAC, and more specifically NAC 704.881 to 704.8825, is hereby amended by adding thereto a new section to read as follows:

NAC 704.XXX "Renewable energy" defined. "Renewable energy" has the meaning ascribed to it in NRS 704.7715.

Sec. 5. NAC 704.8871 is hereby amended to read as follows:

NAC 704.8871 Compliance with portfolio standard. (NRS 703.025, 704.210, 704.7828)

1. ~~[Except as otherwise provided in NAG 704 .8831 to 704 .8899 inclusive:~~
   ~~(a)~~ Each ~~[utility]~~ provider shall comply with its portfolio standard during each compliance year by generating, acquiring or saving electricity from a portfolio energy system or efficiency measure in the amounts required by NRS 704.7821 ***or 704.78213*** for that compliance year;
   ~~(b) If a provider of new electric resources made energy, capacity or ancillary services from a new electric resource available to an eligible customer before July 1, 2009, the portfolio standard set forth in NRS 704.7821 which was effective on the date on which the order approving the application or request was approved shall be deemed to apply to the provider of new electric resources, and the provider of new electric resources shall comply with its portfolio standard by generating, acquiring or saving electricity from a portfolio energy system or efficiency measure in the amounts required by NRS 704.7821 for that compliance year; and~~
   ~~(c) If a provider of new electric resources made energy, capacity or ancillary services from a new electric resource available to an eligible customer on or after July 1, 2009, the provider of new electric resources shall comply with its portfolio standard during each compliance year by generating, acquiring or saving electricity from a portfolio energy system or efficiency measure in the amounts required pursuant to NRS 704.78213.]~~
2. Each provider has the burden to prove that it complied with its portfolio standard during each compliance year. ***A provider described in subsection 9 of NRS 704.7821 shall:***
   (a) Meet that burden by including a statement with the report filed pursuant to paragraph (b) of subsection 1 of NRS 703.191 of the total amount of electricity supplied to its members in this State during the most recently completed compliance year if the total amount of electricity supplied by the provider to such members

during the most recently completed compliance year is less than 1,000,000 megawatt-hours and the provider is a provider described in paragraphs (a) and (d) of subsection 9 of NRS 704.7821;

(b) Meet that burden by submitting to the Commission, not later than April 15 of each compliance year, a report stating the total amount of electricity sold by the provider to its retail customers in this State during the most recently completed compliance year if the total amount of electricity supplied by the provider to such customers during the most recently completed compliance year is less than 1,000,000 megawatt-hours and the provider is a provider described in paragraphs (b) and (c) of subsection 9 of NRS 704.7821; and

(c) Certify the use of a compliant portfolio energy system for any amount in excess of 1,000,000 megawatt hours.

Sec. 6. NAC 704.8877 is hereby amended to read as follows:

NAC 704.8877 Calculations concerning compliance with portfolio standard: Submission of information; estimates; effect of equaling or exceeding estimates. (NRS 703.025, 704.210, 704.7828)

1. ***Except as otherwise provided in NRS 704.7825,*** [~~Not~~] ***not*** later than April 15 of each compliance year, each provider shall submit to the Regulatory Operations Staff and the Bureau of Consumer Protection:
   (a) The total number of kilowatt-hours sold by the provider to its retail customers in this State during the most recently completed compliance year. [~~For compliance year 2003, calendar year 2002 shall be deemed to be the most recently completed compliance year for the purposes of this paragraph.~~]
   (b) The estimated number of kilowatt-hours that the provider expects to sell to its retail customers in this State during the current compliance year.
   (c) 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 subsection 2.
2. To calculate 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, the provider must multiply the estimated number of kilowatt-hours that the provider expects to sell to its retail customers in this State during the current compliance year by the required percentage that is set forth pursuant to NRS 704.7821 or 704.78213, as applicable, for the current compliance year. ***Except that any kilowatt-hours 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 must be excluded from calculations pursuant to this subsection.***
3. Except as otherwise provided in NRS 704.7828, if the total number of kilowatt-hours that

the provider generates, acquires or saves from portfolio energy systems or efficiency measures for the current compliance year is equal to or exceeds the estimated number of kilowatt-hours as calculated by the provider pursuant to subsection 2, the Commission will not impose an administrative fine or take other administrative action against the provider for that compliance year.

Sec. 7. NAC 704.8879 is hereby amended to read as follows:

NAC 704.8879 Annual reports. (NRS 703.025, 704.210, 704.7825, 704.7828)

1. ***Except as otherwise provided in NRS 704.7825,*** ~~[Beginning with compliance year 2004,]~~ not later than April 15 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, ***excluding the kilowatt-hours 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.***
   (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) 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) The estimated number of kilowatt-hours that the provider expects to sell to its retail customers in this State during the current compliance year, ***with a separate subtotal for the kilowatt-hours to be 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*****.**

(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) 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. 8. NAC 704.8881 is hereby amended to read as follows:

NAC 704.8881 Determination of whether provider complied with portfolio standard; carry forward of excess kilowatt-hours; notice of noncompliance; hearing; resolution of deficiency; administrative fines and other administrative action. (NRS 703.025, 704.210, 704.7821, 704.7828)

1. Not later than 90 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;
   (b) The provider may use those excess kilowatt-hours to comply with its portfolio standard for any following compliance year; 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) More than 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) More 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.
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[.] ***if the provider is subject to an administrative fine or any other administrative action pursuant to subsection 4 of NRS 704.7828.***

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[.] ***and, if applicable, during the 2 immediately preceding compliance years.***
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, if applicable, during the 2 immediately preceding compliance years***, 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 6 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. 9. NAC 704.8883 is hereby amended to read as follows:

NAC 704.8883 Petition for exemption from administrative fine or other administrative action. (NRS 703.025, 704.210, 704.7828)

1. If the Commission imposes an administrative fine or takes other administrative action against a provider pursuant to NAC 704.8881, not later than 30 days after the date on which the Commission issues its order, the provider may file with the Commission a petition for an exemption from the administrative fine or other administrative action. If the provider files such a petition, the Commission will schedule a hearing on the petition to be held not later than 75 days after the date on which the petition is filed.
2. For the provider to be entitled to an exemption, the Commission must determine that***:***
   (a) During the most recently completed compliance year, there was not a sufficient supply of electricity ~~[from renewable energy systems]~~ or a sufficient amount of energy savings ***made available to the provider pursuant to*** [~~from~~] ***renewable energy contracts and*** energy efficiency [~~measures~~] ***contracts with just and reasonable terms and conditions, after the provider has made reasonable efforts to secure such contracts*** [~~made available to the provider during the most recently completed compliance year~~]. The Commission will make such a determination only if it finds that***,*** [~~:~~
   ~~(a)~~ [~~After~~] ***after*** the provider made its request for proposals for renewable energy contracts or energy efficiency contracts, the proposals received by the provider did not offer sufficient quantities of electricity or a sufficient amount of energy savings for the provider to comply with its portfolio standard or did not offer sufficient quantities of electricity pursuant to renewable energy contracts or a sufficient amount of energy savings pursuant to energy efficiency contracts with just and reasonable terms and conditions;
   (b) ***The provider was unable to obtain a sufficient supply of electricity to comply with the portfolio standard because of a delay in the completion of the construction of a renewable energy system, or the underperformance of an existing renewable energy system, that is under the control of a person or entity other than the provider and that was intended to provide such electricity. The Commission will make such a determination only if it finds that,*** [~~After~~] ***after*** the provider contracted for sufficient quantities of electricity pursuant to renewable energy contracts or for a sufficient amount of energy savings pursuant to energy efficiency contracts with just and reasonable terms and conditions, one or more of the portfolio energy systems or efficiency measures under contract were unable or failed to meet their contractual commitments to the provider or were prevented from meeting their contractual

commitments to the provider based on federal, state or local requirements or standards;

(c) The provider could not have economically or technically placed into commercial operation its own portfolio energy systems or efficiency measures; or

(d) Other facts and circumstances which the Commission deems relevant support a conclusion that there was not a sufficient supply of electricity from renewable energy systems or a sufficient amount of energy savings from energy efficiency measures made available to the provider. Such other facts and circumstances may include, without limitation, any regulatory delay attributable to the State of Nevada or any other governmental entity.

3. If, after the hearing, the Commission determines that ***one or more of the conditions set forth in subsection 2 existed*** [~~there was not a sufficient supply of electricity from renewable energy systems or a sufficient amount of energy savings from energy efficiency measures made available to the provider during the most recently completed compliance year~~], the Commission:

(a) Will grant, in whole or in part, the petition for an exemption from the administrative fine or other administrative action; and

(b) Will not impose an administrative fine or take other administrative action against the provider with regard to any insufficiency in the portfolio standard**.** [~~that occurs because one or more of the portfolio energy systems or efficiency measures under contract were unable or failed to meet their contractual commitments to the provider or were prevented from meeting their contractual commitments to the provider based on federal, state or local requirements or standards~~].

Sec. 10. NAC 704.8927 is hereby amended to read as follows:

NAC 704.8927 Measurement of applicable energy; certification and allocation of credits. (NRS 701B.200, 703.025, 704.210, 704.7821, 704.7828)

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 13, inclusive, the Administrator shall certify portfolio energy credits to a portfolio energy system or efficiency measure for:

(a) The net 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 output must be provided to the Administrator by the entity that owns, operates or controls the meters used to monitor the net output of electricity of the renewable energy system.

(b) The 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.

(3) 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 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. 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. 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 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 x T) x 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 or 704.78213.
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.

Sec. 11. NAC 704.9154 is hereby amended to read as follows:

NAC 704.9154 "Renewable energy" defined. (NRS 703.025, 704.210, 704.741) "Renewable energy" has the meaning ascribed to it in NRS ~~[704.7811]~~ ***704.7715***.

Sec. 12. NAC 704.9215 is hereby amended to read as follows:

NAC 704.9215 Summary of resource plan. (NRS 703.025, 704.210, 704.741)

1. A utility's resource plan must be accompanied by a summary that is suitable for distribution to the public. The summary must contain easily interpretable tables, graphs and maps and must not contain any complex explanations or highly technical language. The summary must be approximately 30 pages in length.
2. The summary must include:

(a) A brief introduction, addressed to the public, describing the utility, its facilities and the purpose of the resource plan, and the relationship between the resource plan and the strategic plan of the utility for the duration of the period covered by the resource plan.

(b) The forecast of low growth, the forecast of high growth and the forecast of base growth of the peak demand for electric energy and of the annual electrical consumption, for the next 20 years, commencing with the year following the year in which the resource plan is filed, both with and without the impacts of programs for energy efficiency and conservation and an explanation of the economic and demographic assumptions associated with each forecast.

(c) A summary of the demand side plan listing each program and its effectiveness in terms of costs and showing the 20-year forecast of the reduction of demand and the contribution of each program to this forecast.

(d) A summary of the preferred plan showing each planned addition to the system for the next 20 years, commencing with the year following the year in which the resource plan is filed, with its anticipated capacity, cost and date of beginning service.

(e) A summary of renewable energy showing how the utility intends to comply with the portfolio standard and listing each existing contract for renewable energy and each existing contract for the purchase of renewable energy credits and the term and anticipated cost of each such contract.

(f) A summary of:

(1) The energy supply plan for the next 3 years setting out the anticipated cost, price volatility and reliability risks of the energy supply plan;

(2) The risk management strategy;

(3) The fuel procurement plan; and

(4) The purchased power procurement plan.

(g) A summary of the activities, acquisitions and costs included in the action plan of the utility.

(h) An integrated evaluation of the components of the resource plan which relates the preferred plan to the objectives of the strategic plan of the utility, and any other information useful in presenting to the public a comprehensive summary of the utility and its expected development.

3. As used in this section, "renewable energy" has the meaning ascribed to it in NRS 704.7811.

Sec. 13. NAC 704.9355 is hereby amended to read as follows:

NAC 704.9355 Analyses of options for supply.

1. A utility shall develop a set of analyses of its options for supply to be considered for meeting the expected future demand on its system. These analyses must include an examination of the environmental impact of each option, taking into account the best available technologies and the environmental benefit of renewable resources. The options to be analyzed must include:

(a) Construction ***or acquisition*** of ~~[new]~~generation facilities or upgrades to existing generation facilities, including retrofitting existing facilities with more efficient systems or converting to other fuels;
(b) Construction of new transmission facilities or upgrades to existing transmission facilities;
(c) Purchase of long-term transmission rights on transmission facilities owned by other persons;
(d) Improvements in the efficiency of operations and scheduling, including, without limitation, improvements that are attributable to the proposed implementation of new digital and computer information system technologies;
(e) Options of low carbon intensity; and
(f) Transactions with other utilities, independent producers and utility customers for:
(1) Pooling of power;
(2) Purchases of power; or
(3) Exchanges of power.

2. As used in this section:
(a) "Carbon intensity" has the meaning ascribed to it in subsection 5 of NRS 704.741.
(b) "Environmental benefit of renewable resources" means the present worth over a 20-year period of the benefits associated with the generation and maintenance of renewable resources for supply of capacity or energy, or supply of both capacity and energy, that results in a reduction of harm to the environment.

Sec. 14. NAC 704.937 is hereby amended to read as follows:

NAC 704.937 Inclusion in supply plan of alternative plans and list of options for supply of capacity and electric energy; criteria for selection of options; comparison of and requirements for alternative plans; identification of preferred plan. (NRS 703.025, 704.210, 704.741)

1. A utility's supply plan must contain a diverse set of alternative plans which include a list of options for the supply of capacity and electric energy that includes a description of all existing and planned facilities for generation and transmission, existing and planned power purchases, and other resources available as options to the utility for the future supply of electric energy. The description must include the expected capacity of the facilities and resources for each year of the supply plan. At least one alternative plan must be of low carbon intensity and include:
(a) The generation or acquisition of an amount of renewable energy greater than required by NRS 704.7821;
(b) Changes to the utility's existing fleet of resources for the generation of power;
(c) The application of technology that would significantly reduce emissions of carbon; or
(d) Any combination thereof.
2. A utility shall identify the criteria it has used for the selection of its options for meeting

the expected future demands for electric energy and shall explain how any conflicts among criteria are resolved.

3. In comparing alternative plans containing different resource options, the utility shall calculate the present worth of future requirements for revenue for each alternative plan for the supply of power. A comparison of the present worth of future requirements for revenue for each alternative plan must be presented in the resource plan. As calculated pursuant to this subsection, the present worth of future requirements for revenue for each alternative plan must include, without limitation, a reasonable range of costs associated with emissions of carbon in the 20-year period of the resource plan as private costs to the utility.
4. The utility shall calculate the present worth of societal costs for each alternative plan for the supply of power. The present worth of societal costs of a particular alternative plan must be determined by adding the environmental costs that are not internalized as private costs to the utility pursuant to subsection 3 to the present worth of future requirements for revenue.
5. The utility shall consider for each alternative plan the mitigation of risk by means of:
   (a) Flexibility;
   (b) Diversity;
   (c) Reduced size of commitments;
   (d) Choice of projects that can be completed in short periods;
   (e) Displacement of fuel;
   (f) Reliability;
   (g) Selection of fuel and energy supply portfolios; and
   (h) Financial instruments or electricity products.
6. The alternative plans of the utility must:
   (a) Provide adequate reliability;
   (b) Be within regulatory and financial constraints;
   (c) Meet the portfolio standard; and
   (d) Meet the requirements for environmental protection.
7. The utility shall identify its preferred plan and fully justify its choice by setting forth the criteria that influenced the utility's choice.
8. ***As used in this section, "renewable energy" has the meaning ascribed to it in NRS 704.7811***.

Sec. 15. NAC 704.9489 is hereby amended to read as follows:

NAC 704.9489 Requirements for action plan.

1. Each resource plan of a utility must include a detailed action plan based on an integrated analysis of the demand side plan and supply plan of the utility. In its action plan, the utility shall specify all its actions that are to take place during the 3 years commencing with the year following the year in which the resource plan is filed. The action plan must

contain:

(a) An introductory section that explains how the action plan fits into the longer-term strategic plan of the utility.

(b) A list of actions for which the utility is seeking the approval of the Commission.

(c) A schedule for the acquisition of data, including planned activities to update and refine the quality of the data used in forecasting.

(d) A specific timetable for acquisition of options for the supply of electric energy and for programs for energy efficiency and conservation.

(e) If changes in the methodology are being proposed, a description fully justifying the proposed changes, including an analysis of the costs and benefits. Any changes in methodology that are approved by the Commission must be maintained for the period described in the action plan.

(f) A section describing any plans of the utility to acquire additional modeling instruments.

(g) A section for the utility's program for energy efficiency and conservation, including:

(1) A description of continued planning efforts;

(2) A plan to carry out and continue selected measures for energy efficiency and conservation that have been identified as desirable; and

(3) Any impacts of imputed debt calculations associated with energy efficiency contracts in the preferred plan.

(h) A section for the utility's program for acquisition of resources for the supply of electric energy for the period covered by the action plan, including:

(1) The immediate plans of the utility for construction ***or acquisition*** of facilities or long- term purchases of power;

(2) The expected time for construction ***or acquisition*** of facilities and acquisition of long-term purchases of power identified in subparagraph (1);

(3) The major milestones of construction; and

(4) Any impacts of imputed debt calculations associated with renewable energy contracts or energy efficiency contracts in the preferred plan.

2. The action plan must contain an energy supply plan.

3. The action plan must contain a budget for planned expenditures suitable for comparing planned and achieved expenditures. Expenses must be listed in a format that is consistent with the categories and periods to be presented in subsequent filings. The budget must be organized in the following categories:

(a) Forecasting of loads;

(b) Energy efficiency and conservation;

(c) Plan for supply; and

(d) Financial plan.

4. The action plan must contain schedules suitable for comparing planned and actual activities and accomplishments. Milestones and points of decision committing major expenditures must be shown.

5. The action plan must contain a renewable energy zone transmission action plan for serving one or more of the renewable energy zones designated by the Commission or an explanation of why no renewable energy zone transmission action plan is contained in the action plan. In addition to the other action plan requirements set forth in this section, the renewable energy zone transmission action plan must include, with supporting data and documentation, for each action item recommended by the utility:
   (a) For permitting, routing study and right-of-way acquisition expenses, evidence addressing:
      (1) How such expenditures will facilitate compliance with NRS 704.7821 in a manner consistent with NAC 704.8901 to 704.8937, inclusive; and
      (2) All other benefits Nevada retail ratepayers will derive from the expenses;
   (b) For proposed construction and expansion of transmission facilities:
      (1) Evidence of how the proposed construction and expansion will facilitate compliance with NRS 704.7821 in a manner consistent with NAC 704.8901 to 704.8937 inclusive;
      (2) A listing and description, including detailed cost estimates and development schedules, of the transmission facilities recommended by the utility for construction or expansion;
      (3) A listing and description of transmission alternatives that were considered by the utility, including transmission development partnerships;
      (4) Data and economic analysis that supports the transmission projects recommended by the utility, including, without limitation, a comparison of the levelized cost, including transmission, of procuring renewable resources from the renewable energy zones proposed to be served by the utility's recommended transmission projects to other renewable resource options, including those that are located in and out of renewable energy zones designated by the Commission;
      (5) Evidence of the financial commitments from developers of renewable energy projects located in the affected renewable energy zones;
      (6) An estimate of the level of capacity and energy that the utility expects to utilize from the affected renewable energy zones in the next 20 years, commencing with the year following the year in which the resource plan is filed; and
      (7) The estimated time frame to fully utilize the capacity of the construction and expansion of transmission facilities recommended by the utility; and
   (c) In addition to the renewable energy zone transmission action plan requirements set forth in paragraph (b), for construction and expansion of transmission infrastructure that will serve both Nevada retail ratepayers and export markets outside of Nevada:
      (1) Evidence that any renewable energy developers wishing to export energy outside of Nevada have a buyer for their energy and that the buyer has a means of delivering the energy from the transmission system of the Nevada utility to the point of delivery;

(2) A strategic plan to mitigate the potential financial risks to Nevada retail ratepayers associated with stranded investment and infrastructure that is not intended to provide service to Nevada retail ratepayers, including, without limitation, safeguards to monitor the financial risk to Nevada's retail ratepayers and criteria to trigger an amendment to the renewable energy transmission action plan should changes in circumstance occur which could expose Nevada retail ratepayers to such risks; and

(3) Identification of the potential resources in the renewable energy zones, including the resources under contract, resources under development, known completion dates and the known amount of capacity and energy to be produced by renewable energy projects in the affected renewable energy zones for customers outside of Nevada.