

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

**LCB FILE NO. T005-21P**

**The following document is the temporary regulation proposed  
by the agency submitted on 05/20/2021**

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

**LCB File No. R136-20**

April 13, 2021

AUTHORITY: §§1-16, NRS 703.025, 704.210 and 704.7865.

A REGULATION relating to electric utilities; limiting the amount of energy that may be allocated to certain categories of customers under an expanded solar access program; requiring an electric utility to submit to the Public Utilities Commission of Nevada an expanded solar access program plan; establishing the application and selection process for an expanded solar access program; establishing requirements for the selection of locations for community-based solar resources; establishing requirements for rates charged under an expanded solar access program; authorizing an electric utility to recover certain costs of implementing an expanded solar access program; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires: (1) an electric utility to offer an expanded solar access program to eligible customers within its service territory; and (2) the Public Utilities Commission to adopt regulations establishing standards for the expanded solar access program. (NRS 704.7865)

**Section 10** of this regulation establishes limits on the amount of energy which may be allocated to certain categories of customers under the expanded solar access program.

**Section 11** of this regulation requires an electric utility to: (1) submit an expanded solar access program plan to the Commission every 3 years; and (2) file with the Commission an informational report regarding the expanded solar access program on or before March 1 of each calendar year following the calendar year in which the Commission approves the initial expanded solar access program plan of the electric utility. **Section 11** requires the utility scale solar resources included in the expanded solar access program plan to be approved by the Commission as part of the electric utility's triennial resource plan.

**Section 12** of this regulation establishes the information which an electric utility is required to include in its expanded solar access program plan.

**Section 13** of this regulation establishes requirements for eligible customers to apply to participate in an expanded solar access program and requires applicants to be selected through a lottery system.

**Section 14** of this regulation establishes requirements for the selection of the geographic locations for community-based solar resources.

**Section 15** of this regulation establishes the method for calculating the rate charged to participants in the expanded solar access program which replaces the base tariff energy rate and deferred energy accounting adjustment. **Section 15** also requires the Commission to adjust certain rates charged to low-income customers to ensure that such customers receive a lower energy rate.

**Section 16** of this regulation establishes the process for an electric utility to recover the costs of implementing an expanded solar access program. **Section 16** also authorizes an electric utility to use the portfolio energy credits acquired by implementing the expanded solar access program to meet its portfolio standard.

**Section 1.** Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this regulation.

**Sec. 2.** *As used in sections 2 to 16, inclusive, of this regulation unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Disadvantaged business” has the meaning ascribed to it in NRS 704.7865.*

**Sec. 4.** *“Eligible premises customer” means a customer who is a fully bundled residential customer of an electric utility who cannot install solar resources on the customer’s premises due to physical or ownership constraints on the premises.*

**Sec. 5.** *“Expanded solar access program plan” means the expanded solar access program plan submitted to the Commission by an electric utility pursuant to section 11 of this regulation.*

**Sec. 6.** *“Expanded solar access program rate” means a fixed-rate charge approved by the Commission to be charged to customers participating in an expanded solar access program, which replaces the base tariff energy rate and the deferred energy accounting adjustment and which is adjusted in accordance with the quarterly calculations of the Commission.*

**Sec. 7.** *“Low-income eligible customer” has the meaning ascribed to it in NRS 704.7865.*

**Sec. 8.** *“Non-contiguous geographic locations” means two geographic locations that are not adjoining along a boundary or consisting of parts that adjoin.*

**Sec. 9.** *“Nonprofit organization” means an organization which qualifies as tax exempt pursuant to section 501(c) of the Internal Revenue Code, 26 U.S.C. § 501(c).*

**Sec. 10.** *1. An electric utility that primarily serves densely populated counties shall ensure that the amount of energy provided annually through its expanded solar access program does not exceed:*

*(a) 60,000 megawatt-hours to low-income eligible customers;*

*(b) 60,000 megawatt-hours to disadvantaged businesses and nonprofit organizations; and*

*(c) 120,000 megawatt-hours to eligible premises customers.*

*2. An electric utility that primarily serves less densely populated counties shall ensure that the amount of energy provided annually through its expanded solar access program does not exceed:*

*(a) 40,000 megawatt-hours to low-income eligible customers;*

*(b) 40,000 megawatt-hours to disadvantaged businesses and nonprofit organizations; and*

*(c) 80,000 megawatt-hours to eligible premises customers.*

*3. An electric utility shall set forth in its expanded solar access program plan a reserve amount for the categories of customers listed in subsections 1 and 2, as applicable, to ensure*

that the size of the expanded solar access program does not exceed the limits set forth in subsection 1 of NRS 704.7865.

4. As used in this section:

(a) "Electric utility that primarily serves densely populated counties" has the meaning ascribed to it in NRS 704.110.

(b) "Electric utility that primarily serves less densely populated counties" has the meaning ascribed to it in NRS 704.110.

**Sec. 11.** 1. On or before December 1, 2020, and every 3 years thereafter, an electric utility shall submit an expanded solar access program plan to the Commission for approval.

2. An electric utility may file an amendment to an expanded solar access program plan that has been approved by the Commission provided that another expanded solar access program plan submitted by the utility is not pending before the Commission.

3. Two or more utilities that are affiliated through common ownership may jointly file an expanded solar access program plan or amendment pursuant to this section.

4. Utility scale solar resources which are included in an expanded solar access program plan must be approved by the Commission in an order issued pursuant to NRS 704.751.

5. On or before March 1 of each calendar year following the calendar year in which the Commission approved the initial expanded solar access program plan of an electric utility, the electric utility shall file an informational report with the Commission which details:

(a) For the immediately preceding calendar year:

(1) The number of applications for the program received by the electric utility;

(2) The number of individuals who voluntarily left the program; and

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(3) *The number of participants remaining in the program at the end of the calendar year.*

(b) *The status of any community-based solar resources including, without limitation, the construction, maintenance and operation of such solar resources.*

(c) *The production of energy by community-based solar resources and utility scale solar resources which are included in the program.*

(d) *The amount of energy subscribed and whether the reserve capacity is adequate.*

(e) *Information regarding the expanded solar access program rate, including, without limitation, revenues received and costs incurred by the utility.*

(f) *Any workforce statistics related to the program that are available to the electric utility.*

(g) *The number and types of calls to the customer service department of the utility relating to the program.*

(h) *The number of individuals that did not return recertification documentation.*

**Sec. 12.** *The expanded solar access program plan of an electric utility must include the following information:*

1. *A list of actions for which the electric utility is seeking approval by the Commission, including, without limitation, the electric utility's selection of community-based solar resources and utility scale solar resources to be included in the expanded solar access program. The Commission will not approve the list of actions unless the proposed actions ensure that the expanded solar access program utilizes a reasonable mixture of community-based solar resources and utility scale solar resources.*

2. *A list of the utility scale solar resources to be used in determining the expanded solar access program rate.*

3. *The criteria, which must be developed using stakeholder input, to be used by the electric utility to create an initial list of non-contiguous geographic locations for community-based solar resources and the process, which must include receiving input from stakeholders, for selecting final site locations for community-based solar resources. An electric utility may, in subsequent expanded solar access program plans or amendments, after consultation with stakeholders, propose modifications to the criteria and process for selecting the community-based solar resource locations and, when necessary, indicate any proposed new community-based solar resource locations.*

4. *A schedule for the selection, construction and operation of the community-based solar resources dedicated to the expanded solar access program that complies with the requirements of paragraph (h) of subsection 2 of NRS 704.7865 and considers the amount of energy that is subscribed, the amount of energy that is expected to be subscribed and the reserve energy.*

5. *A description of the electric utility's process for community participation in the naming of community-based solar resources.*

6. *Information on how the electric utility plans to compensate community-based solar site hosts including, without limitation, the terms of any form lease agreements, purchase agreements or easements.*

7. *Information regarding a solar workforce innovations and opportunities program, developed by the Department of Employment, Training and Rehabilitation in conjunction with potential employers, interested nonprofit organizations, and the International Brotherhood of Electrical Workers, or its successor organization, to provide workforce education, training and job placement. The solar workforce innovations and opportunities program must accomplish the following:*

*(a) Leverage existing plans and programs within the Department of Employment, Training and Rehabilitation to reduce administrative costs.*

*(b) Ensure that at least one job fair open to the public is conducted in each community or neighboring low-income community, as needed for recruitment, where a community-based solar resource is planned to be built. The job fair must be coordinated with the Department of Employment, Training and Rehabilitation, private solar or electrical installation companies, local schools and colleges, the International Brotherhood of Electrical Workers, or its successor organization, including, without limitation, representatives from the Joint Apprenticeship Training Center, and other interested stakeholders, as practicable, to provide educational resources and training and to solicit potential qualified applicants.*

*(c) Establish a selection process to refer qualified applicants to the International Brotherhood of Electrical Workers, or its successor organization, for adequate training. Qualified applicants may be selected to participate in appropriate contracted positions to aid in the construction, maintenance and operation of community-based solar projects.*

*(d) Determine job titles, detail quality compensation and establish benefits for the contracted positions.*

*8. A description of the application and selection process for eligible customers, including, without limitation, annual rules for recertification, disenrollment and relocation of customers enrolled in the expanded solar access program.*

*9. A plan for marketing the expanded solar access program, which includes marketing that is linguistically appropriate.*

*10. The proposed annual budget for each of the expanded solar access program plan components, including, without limitation, marketing, community outreach and program administration.*

11. *Criteria for identifying traditionally underrepresented groups for the purposes of determining qualifying owners of a disadvantaged business. Qualifications for a disadvantaged business may be developed in coordination with a governmental agency or nonprofit organization with relevant expertise.*

12. *Criteria for identifying and establishing the boundaries of a community with higher levels of low-income eligible customers. An electric utility shall utilize available tools and work with appropriate government agencies, including, without limitation, the Division of Welfare and Supportive Services of the Department of Health and Human Services, to the extent practicable, to develop the criteria necessary to determine the boundaries of a community with higher levels of low-income eligible customers.*

13. *A description of expanded solar access program rate components and methodology for developing participant charges.*

**Sec. 13.** *1. A low-income eligible customer, disadvantaged business, nonprofit organization or eligible premises customer located within the service territory of an electric utility may apply to participate in the expanded solar access program of the electric utility.*

*2. An electric utility may cooperate with the Housing Division of the Department of Business and Industry, the Division of Welfare and Supportive Services of the Department of Health and Human Services or any other state, county or local governmental entity, or any nonprofit organization, to develop eligibility criteria and verification processes for a low-income eligible customer.*

*3. A disadvantaged business must include in its application to participate in an expanded solar access program:*

*(a) A copy of its State or local business license;*

*(b) Documentation demonstrating that more than 50 percent of the owners of the business are women, veterans, members of a racial or ethnic minority group or otherwise part of a traditionally underrepresented group according to the criteria included in the expanded solar access program plan approved by the Commission; and*

*(c) A signed affidavit of eligibility with supporting evidence that confirms that each owner of the business does not have a net worth of more than \$250,000, not including equity held in the business or in a primary residence.*

*4. A nonprofit organization must include in its application to participate in an expanded solar access program an affirmation or determination letter from the Internal Revenue Service indicating that the organization is exempt from taxation pursuant to section 501(c) of the Internal Revenue Code, 26 U.S.C. § 501(c).*

*5. An eligible premises customer must include in his or her application to participate in an expanded solar access program a written statement certifying that the customer cannot install solar resources on his or her premises due to physical or ownership constraints on the premises. For the purpose of determining whether an eligible premises customer is eligible to participate in an expanded solar access program, a financial constraint preventing the customer from installing solar resources on his or her premises does not constitute a physical constraint on such an installation. An eligible premises customer may include in his or her application building or property schematics or pictures demonstrating that the eligible premises customer cannot install solar resources on his or her premises due to physical or ownership constraints on the installation of solar resources on his or her premises.*

*6. The expanded solar access program plan year runs from January 1 to December 31 of each calendar year.*

7. *Applicants for participation in an expanded solar access program must be selected on the basis of a lottery system which each electric utility shall set forth in its expanded solar access program plan. Each electric utility shall also include in its expanded solar access program plan a description of any interim enrollment process that the electric utility intends to use.*

8. *Participants in an expanded solar access program will be enrolled in the program for 1 year but may withdraw from participation at any time. At the end of the expanded solar access program term, a participant may renew participation in the program without participating in the selection lottery if the participant notifies the electric utility of the participant's intention to remain in the program and resubmits any documents that meet the requirements contained in subsection 3, 4 or 5, as applicable.*

9. *A customer's participation in the program may be terminated by the electric utility as provided in an expanded solar access program plan that has been approved by the Commission.*

**Sec. 14.** *1. In selecting the host sites for community-based solar resources connected to the distribution system, an electric utility must consider and provide greater weight to the following locations:*

*(a) A location in a disadvantaged or low-income community.*

*(b) A location in an area determined by an electric utility or the Commission to have high locational value which includes, without limitation, an area that has optimum solar output, an area for which it is possible to obtain the necessary permits, an area that provides community services or benefits or an area that provides a grid benefit.*

*2. An electric utility shall provide a reasonable justification for its selection of a host site as the site for a community-based solar resource. If it is impracticable for an electric utility to site a community-based solar resource in a community with higher levels of low-income eligible*

customers, the electric utility shall provide adequate rationale for why the selected site is appropriate.

**Sec. 15.** *1. The expanded solar access program rate for all customers participating in the program must be calculated as 30 percent of the weighted average of the rates for new utility-scale solar resources accepted by the Commission in an order pursuant to NRS 704.751 and selected for use in determining the ESAP rate pursuant to NRS 704.7865(2)(f)(1), as approved by the Commission, and community-based solar resources approved as part of the expanded solar access program plan, plus 70 percent of the base tariff energy rate and deferred energy accounting adjustment, adjusted to remove the expanded solar access program resources. The expanded solar access program rate will replace a participating customer's base tariff energy rate and deferred energy accounting adjustment.*

*2. The Commission will adjust the expanded solar access program rate charged to low-income customers as necessary to guarantee that such customers receive a lower energy rate as required by NRS 704.7865.*

*3. Customers participating in the expanded solar access program shall pay any other applicable charges, including, without limitation, the universal energy charge, franchise fees, the renewable energy program rate and the base tariff general rates, except that the Commission may reduce one or more of these charges for low-income customers to ensure that such customers receive a lower rate as required by NRS 704.7865.*

*4. Any expanded solar access program rate discount, including, without limitation, any low-income customer discount, must be tracked by the electric utility separately in a regulatory asset and recovered from all utility customers, including distribution-only service customers, on a*

quarterly basis in conjunction with an electric utility's quarterly filing made pursuant to NRS 704.110.

5. Expanded solar access rate revenues paid by participating customers must be applied to the deferred energy accounting balance in the same manner as the base tariff energy rate and the deferred energy accounting adjustment rates.

**Sec. 16.** 1. All of the costs of implementing an expanded solar access program, with the exception of any rate discount tracked pursuant to subsection 4 of section 15 of this regulation, must be accounted for in the books and records of an electric utility in regulatory asset accounts which are separate from costs and amounts attributable to any other activity. All such accounts must be maintained in a manner that will allow costs and amounts attributable to specific programs to be readily identified. The calculation for the regulatory asset account for the capital costs of a community-based solar resource begins on the last day of the month following the date on which the resource is made available as a community-based solar resource.

2. An electric utility shall recover all prudent and reasonable expenditures of implementing the expanded solar access program, provided that such expenditures arise out of actions that have been approved by the Commission as part of the electric utility's expanded solar access program plan.

3. An electric utility must submit the regulatory asset accounts associated with the expanded solar access program to the Commission with the electric utility's annual deferred energy accounting adjustment application submitted pursuant to NRS 704.187, with proposals to recover the accumulated balance of the expanded solar access program costs and for the recovery of and return on the costs for the construction or acquisition of any community-based solar resource dedicated to the expanded solar access program by the electric utility.

4. *All expenditures related to the expanded solar access program are public policy costs that must be charged to all customer classes of an electric utility, including distribution-only customers.*

5. *The portfolio energy credits generated:*

*(a) from the expanded solar access program will be used for renewable portfolio standard compliance by the electric utility implementing the expanded solar access program; and*

*(b) from community-based solar resources shall be allocated between the electric utility implementing the expanded solar access program and its distribution-only service customers on a load ratio basis.*

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066**  
**Informational Statement**  
**LCB File No. R136-20**

**1. A clear and concise explanation of the need for the adopted regulation.**

Assembly Bill (“AB”) 465 (2019), passed in 2019, requires the Public Utilities Commission of Nevada (the “Commission”) to adopt regulations pertaining to the implementation of an expanded solar access program (“ESAP”). This regulation implements AB 465 (2019), by establishing standards and requirements for the ESAP program.

**2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.**

(a) Copies of the proposed regulation, notice of intent to act upon the regulation and notice of workshop and hearing were sent by U.S. mail and email to persons who were known to have an interest in the subjects of noticing and interventions. These documents were also made available at the website of the PUCN, <http://puc.nv.gov>, mailed to all county libraries in Nevada, published in the following newspapers:

Ely Times  
Las Vegas Review Journal  
Reno Gazette-Journal  
Tonopah Times-Bonanza,

and posted at the following locations:

Public Utilities Commission  
1150 East William Street  
Carson City, Nevada 89701

Public Utilities Commission  
9075 West Diablo Drive, Suite 250  
Las Vegas, Nevada 89148

(b) Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy (together “NV Energy”), the Regulatory Operations Staff (“Staff”) of the Commission, Bombard Renewable Energy, the Sierra Club and Western Resource Advocates, Chispa Nevada, Nevada Assemblywoman Daniele Monroe-Moreno, the Attorney General’s Bureau of Consumer Protection (“BCP”), the City of Las Vegas, the Nevada Department of Employment, Training, and Rehabilitation (“DETR”), the Nevada Conservation League, and MGM Resorts International and Caesars Enterprise Services, LLC (together, “MGM and Caesars”) filed comments in the matter. Commenters raised concerns about the rates charged to participants of the ESAP program, the electric utility’s allocation and recovery of costs resulting from implementing the ESAP program, portfolio energy credit allocation, and providing equitable access to the ESAP program for all communities in Nevada.

(c) Copies of the transcripts of the proceedings are available for review at the offices of the PUCN, 1150 East William Street, Carson City, Nevada 89701 and 9075 West Diablo Drive, Suite 250, Las Vegas, Nevada 89148.

3. **The number of persons who:**
  - (a) **Attended the February 17, 2021, hearing: 11**
  - (b) **Testified at the February 17, 2021, hearing: 8**
  - (c) **Attended the March 25, 2021, hearing: 6**
  - (d) **Testified at the March 25, 2021, hearing: 5**
  - (e) **Submitted written comments: 11**
  
4. **For each person identified in paragraphs (b), (d), and (e) of number 3 above, the following information if provided to the agency conducting the hearing:**
  - (a) **Name;**
  - (b) **Telephone number;**
  - (c) **Business address;**
  - (d) **Business telephone number;**
  - (e) **Electronic mail address; and**
  - (f) **Name of entity or organization represented.**

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**5. A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses in the same manner as they were solicited from the public.

The summary may be obtained as instructed in the response to question 2(c).

**6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

Proposed revisions to the regulation proposed by the commenters and participants were generally incorporated in the regulation.

7. **The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include: both adverse and beneficial effects, and both immediate and long-term effects.**

- (a) **Estimated economic effect on the businesses which they are to regulate.**

The regulation is expected to have minimal adverse effects on businesses in both the immediate and long-term.

- (b) **Estimated economic effect on the public which they are to regulate.**

The regulation is expected to have minimal adverse effects on the public in both the immediate and long-term.

8. **The estimated cost to the agency for enforcement of the proposed regulation:**

Any costs associated with the regulation are considered incremental in nature.

9. **A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The regulation does not overlap any other State, governmental agency, or federal regulations.

10. **If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

N/A

11. **If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

N/A

12. **If the proposed regulation is likely to impose a direct and significant burden upon a small business or directly restrict the formation, operation or expansion of a small business, what methods did the agency use in determining the impact of the regulation on a small business?**

Staff conducted a Delphi Method exercise to determine the impact of this proposed regulation on small businesses. The Delphi Method is a systematic, interactive, forecasting method based on independent inputs of selected experts. In this instance, the participants were members of Staff. Each participant in the exercise used his background and expertise

to reflect upon and analyze the impact of the proposed regulation on small businesses. Additionally, Staff performed a Rate Impact Analysis (“RIA”) based on information in the Joint Application by NV Energy for approval of an ESAP program, filed in Docket no. 20-12003. Staff’s RIA took into consideration various assumptions about the ESAP program to arrive at an estimate of the potential range of the total annual ESAP program costs. Staff’s RIA, additionally, estimated the range of potential rate impacts to small businesses.

The Commission relied on Staff’s RIA and an assessment of potential bill impacts to small businesses and found that the proposed regulation does not impose a direct and significant economic burden upon small businesses, nor does it directly restrict the formation, operation, or expansion of a small business, and therefore a small business impact statement pursuant to NRS 233B.0608(2) is not required. This finding was memorialized in an Order issued in Docket No. 19-06028 on January 21, 2021.

## STATEMENT REGARDING SMALL BUSINESS IMPACT (NRS 233B.0608)

### LCB File No. R136-20 (PUCN Docket No. 19-06028)

- 1. A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

N/A. *See* Informational Statement accompanying the Regulation, Question Nos. 2-5 and 12.

Pursuant to NRS 233B.0608 (1), the Regulatory Operations Staff (“Staff”) of the Public Utilities Commission of Nevada (“PUCN”) conducted an investigation to determine whether the proposed regulation is likely to: (a) Impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business. In a Memorandum filed on December 3, 2020, Staff memorialized its conclusion that the proposed regulation does impose a direct economic burden upon small businesses, however, it did not have sufficient information to determine if the impact would be significant. *See* Attachment 1 hereto.

On January 5, 2021, Staff filed a Rate Impact Analysis based on various assumptions of an ESAP program to estimate a potential range of the total annual ESAP costs and a range of potential rate impacts to small businesses.

On January 21, 2021, the PUCN issued an Order relying on Staff’s Rate Impact Analysis and an assessment of potential bill impacts to small businesses and specifically found that the proposed regulation does not impose a direct and significant economic burden upon small businesses, nor does it directly restrict the formation, operation or expansion of a small business. *See* Attachment 3 hereto.

NRS 233B.0608 (2)(a) only requires an agency to consult with owners and officers of small businesses “*if* an agency determines pursuant to subsection 1 that a proposed regulation *is* likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business...” (emphasis added). Given the PUCN’s determination that the proposed regulation does not impose a direct and significant economic burden upon small businesses or directly restrict the formation, operation or expansion of a small business, the PUCN is not statutorily mandated to make this inquiry, as no such “affected” small businesses exist.

- 2. The manner in which the analysis was conducted.**

*See* Attachments 1, 2, and 3. Staff used a version of the Delphi method that incorporates elements of the Staff Delphi method to determine the potential impact of a regulation on small businesses. Additionally, Staff conducted a Rate Impact Analysis based on various assumptions of an ESAP program to estimate a potential range of the total annual ESAP costs and a range of potential rate impacts to small businesses.

**3. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:**

- (a) Both adverse and beneficial effects; and**
- (b) Both direct and indirect effects.**

*See* Informational Statement accompanying the Regulation, Question No. 7. *See also* Attachments 1, 2, and 3.

**4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**

N/A. *See* Attachments 1, 2, and 3.

Pursuant to NRS 233B.0608 (1), Staff conducted an investigation to determine whether the proposed regulation is likely to: (a) Impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business. Staff also performed a Rate Impact Analysis to estimate the potential rate impact of the regulation on small businesses.

On January 21, 2021, the PUCN issued an Order relying on the findings of Staff and an assessment of potential bill impacts to small businesses, and specifically found that the proposed regulation does not impose a direct and significant economic burden upon small businesses, nor does it directly restrict the formation, operation or expansion of a small business. *See* Attachment 3.

NRS 233B.0608 (2)(c) only requires an agency to consider methods to reduce the impact of a proposed regulation on small businesses “*if* an agency determines pursuant to subsection 1 that a proposed regulation *is* likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business...” (emphasis added). Given the PUCN’s determination that the proposed regulation does not impose a direct and significant economic burden upon small businesses or directly restrict the formation, operation or expansion of a small business, the PUCN is not statutorily mandated to make this inquiry as there are no direct and significant impacts on small businesses and no methods that were considered for reducing the non-existent impacts.

**5. The estimated cost to the agency for enforcement of the proposed regulation.**

*See* Informational Statement accompanying the Regulation, Question No. 8. *See also* Attachment 1.

**6. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

N/A. *See also* Informational Statement accompanying the Regulation, Question No. 11.

7. **If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.**

*See* Informational Statement accompanying the Regulation, Questions Nos. 9 and 10.

8. **The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.**

The PUCN complied with NRS 233B.0608 by making a concerted effort to determine whether the proposed regulation imposes a direct and significant economic burden upon small businesses, or directly restricts the formation, operation or expansion of a small business. The PUCN concluded that no such impacts would occur from the adoption of the proposed regulation based upon the well-reasoned investigation and analysis performed by Staff.

I, STEPHANIE MULLEN, Executive Director of the PUCN, certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and the information contained in the statement was prepared properly and is accurate.

DATED this 20 day of May, 2021.

  
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STEPHANIE MULLEN  
Executive Director  
PUBLIC UTILITIES COMMISSION OF NEVADA