

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

**LCB File No. R043-12**

Effective November 1, 2012

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

AUTHORITY: §§1 and 2, NRS 703.025, 704.185, 704.187 and 704.210; §3, NRS 703.025, 704.210 and 704.225; §4, NRS 703.025, 704.210, 704.997 and 704.998; §5, NRS 703.025 and 704.210.

A REGULATION relating to utilities; revising the method of maintaining deferred energy accounting; repealing certain provisions; and providing other matters properly relating thereto.

**Section 1.** NAC 704.045 is hereby amended to read as follows:

704.045 “Deferred energy balance” means the amount contained in, for electric operations, FERC Account Nos. 182.3 and 254 and, for gas operations, FERC Account No. 191, and represents:

1. The difference between revenue received from the base tariff energy rate and the jurisdictional allocation of the amounts contained in the appropriate accounts listed in paragraphs (a), (b), (c), (d) and (g) of subsection 2 of NAC 704.120, which must be adjusted by the amounts contained in the appropriate subaccounts of the accounts set forth in paragraphs (e) and (h) of subsection 2 of NAC 704.120;
2. The amount resulting from the application of the deferred energy accounting adjustment to sales, as contained in the appropriate revenue accounts;
3. *Revenues from interruptible irrigation sales;*

4. The Nevada jurisdictional portion of refunds from suppliers, including any interest earned thereon; and

~~4.4~~ 5. Carrying charges as described in NAC 704.150.

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

704.101 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:

1. For electric operations:

(a) 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 applicable jurisdictional sales by the ratio of those jurisdictional sales to the total sales of energy, exclusive of off-system sales, 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.

(b) 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.

(c) *A credit entry equal to the amount of revenue from interruptible irrigation sales.*

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

~~(d)~~ (e) 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.

2. For gas operations:

(a) 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.

(b) 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.

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

(d) 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.

**Sec. 3.** NAC 704.675 is hereby amended to read as follows:

704.675 1. For the period from November 1 to the last day in February, inclusive:

(a) The schedule containing the rate for interruptible service pursuant to NRS 704.225 must provide for charges which are the same as those provided in the utility's regular schedule of rates for irrigation.

(b) Annual charges must be prorated, and any amount attributable to the period from March 1 to October 31, inclusive, must be excluded.

2. The schedule containing the rate for interruptible service pursuant to NRS 704.225 must include a provision requiring the customer to agree to an interruption of service at any time during the period from March 1 to October 31, inclusive, upon notification by the utility pursuant to the conditions set forth in the utility's tariff for interruptible service.

~~[ 3. For the purposes of NAC 704.023 to 704.195, inclusive, the base tariff energy rate applicable to interruptible irrigation sales is the lesser of the base tariff energy rate applicable to other rate schedules or the rate for interruptible service.]~~

**Sec. 4.** NAC 704.7896 is hereby amended to read as follows:

704.7896 ~~[1.]~~ NAC 704.789 to 704.792, inclusive:

~~[(a)]~~ 1. Apply to the provision of services as set forth in NRS 704.993 to 704.999, inclusive.

~~[(b)]~~ 2. Do not apply to a public utility that supplies natural gas which is not regulated under an alternative plan established pursuant to NRS 704.997.

~~[ 2. The provisions of NAC 704.789 to 704.792, inclusive, are not in any way restricted by the provisions of NAC 704.270 to 704.2725, inclusive.]~~

**Sec. 5.** NAC 704.8897 is hereby amended to read as follows:

1. Within 30 days after the issuance of an order by the Commission to establish a TRED program, the utility provider shall appoint a third-party professional trustee acceptable to the Commission and shall take all actions necessary to initiate a temporary renewable energy development trust. The TRED trust shall receive money collected by the utility provider from retail customers pursuant to a temporary renewable energy development charge and disburse that money to eligible new renewable energy projects. The TRED trust has the sole right to receive revenue generated by the TRED charge, and the right to receive such revenue constitutes a current property right granted to and vested in the TRED trust.

2. The utility provider shall file an executed copy of the trust agreement between the utility provider and the trustee of the TRED trust with the Commission for its approval.

3. The trust agreement must contain a provision establishing a minimum level of reserve for the TRED trust that is equal to three times the highest projected monthly payment to each eligible new renewable energy project for the period during which the TRED charge will be in effect.

4. The costs incurred by a utility provider to initiate and maintain a TRED trust, including, without limitation, the cost of reserves advanced by the utility provider to the TRED trust, the taxes assessed on the utility provider for amounts related to the TRED trust and the fees charged by the trustee, must be considered expenses associated with the acquisition of purchased power. The amount must be booked by the utility provider in *a subaccount of FERC Account No. 182.3* ~~[and]~~, *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. The amount* may be recovered by the utility provider pursuant to the deferred energy accounting process set forth in NAC 704.023 to 704.195, inclusive. *The utility provider shall use a subaccount of FERC Account No. 407.3 to offset the tax liability recorded in the subaccount of FERC Account No. 182.3 pursuant to this subsection or a subaccount of FERC Account No. 407.4 to offset the tax liability recorded in the subaccount of FERC Account No. 254 pursuant to this subsection. The utility shall record current taxes and any related deferred taxes in the appropriate subaccount of FERC Account Nos. 409, 410 and 411, as applicable.*

5. Once the TRED charge is established by an order of the Commission issued pursuant to NAC 704.8898, the utility provider shall begin collecting the TRED charge from its retail customers. Beginning with the first full calendar week thereafter and continuing once each week following, the utility provider shall estimate and remit to the TRED trust the total amount

collected pursuant to the TRED charge through the last calendar day of the previous collection period.

6. On the 20th calendar day of each month, the utility provider shall provide the trustee of the TRED trust with a statement showing the calculation of the amounts to be disbursed to each eligible new renewable energy project in accordance with its respective renewable energy or portfolio energy credits contracts based on the production of each eligible new renewable energy project during the previous calendar month. The TRED trust shall, within 7 calendar days after receiving the statement from the utility provider, remit payment to each eligible new renewable energy project in accordance with the statement.

**Sec. 6.** NAC 704.270, 704.2702, 704.2704, 704.2706, 704.2708, 704.271, 704.2714, 704.2716, 704.272, 704.2725 and 704.273 are hereby repealed.

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### TEXT OF REPEALED SECTIONS

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**704.270 Definitions. (NRS 703.025, 704.210)** As used in NAC 704.270 to 704.273, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.2702 to 704.2716, inclusive, have the meanings ascribed to them in those sections.

**704.2702 “Affiliate” defined. (NRS 703.025, 704.210)** “Affiliate” means a person who directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a public utility.

**704.2704 “Control” defined. (NRS 703.025, 704.210)** “Control” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through ownership, by contract, or otherwise.

**704.2706 “Financial trust” defined. (NRS 703.025, 704.210)** “Financial trust” means an affiliate or subsidiary which is created by a public utility for the sole purpose of financing securities.

**704.2708 “Material transaction” defined. (NRS 703.025, 704.210)** “Material transaction” means:

1. Any contract, business arrangement, joint venture, or partnership which:
  - (a) Is between a public utility and one of its affiliates, subsidiaries, or parents for the acquisition of any goods or services; and
  - (b) Involves goods or services, or a series of transactions for goods or services, valued at \$1,000,000 or more.
2. Any transaction or combination of transactions with a subsidiary or affiliate valued at 3 percent or more of the annual revenues of the public utility which affects the indebtedness, obligations, capital structure, service, personnel, or value of the common stock of the public utility.
3. Recurring payments made pursuant to a general or continuing agreement between a public utility and an affiliate or a subsidiary valued in the aggregate at 3 percent or more of the annual revenues of the public utility.

**704.271 “Person” defined. (NRS 703.025, 704.210)** “Person” means a natural person, trust, estate, partnership, joint venture, or corporation.

**704.2714 “Public utility” defined. (NRS 703.025, 704.210)** “Public utility” has the meaning ascribed to it in NRS 704.020.

**704.2716 “Subsidiary” defined. (NRS 703.025, 704.210)** “Subsidiary” means a person who is controlled by a public utility directly or indirectly through one or more intermediaries.

**704.272 Applicability; exemptions from certain requirements. (NRS 703.025, 704.210)**

1. Except as otherwise provided in this section, the provisions of NAC 704.270 to 704.273, inclusive, apply to all public utilities.

2. The provisions of NAC 704.270 to 704.273, inclusive, do not apply to a competitive supplier.

3. Unless otherwise ordered by the Commission, transactions which relate solely to telecommunication services deemed competitive or nonregulated pursuant to the provisions of NAC 704.6806 to 704.68076, inclusive, are not required to be included in the report required by NAC 704.2725.

4. A public utility whose rates are:

(a) Subject to the jurisdiction of the Commission as set forth in NRS 704.095 and 704.097; or

(b) Subject to the jurisdiction of the Commission and whose annual jurisdictional revenues are less than \$2,000,000,

↪ is required to comply with the provisions of NAC 704.2725 and 704.273 only when it files an application for a change in general rates.

5. Unless otherwise ordered by the Commission, transactions which relate solely to services which have been approved as part of a public utility’s tariff are not required to be included in the report required by NAC 704.2725.

6. Transactions between a public utility and an affiliated financial trust are not required to be included in the report required by NAC 704.2725 if the transactions and issuances involving the utility and trust are subject to the jurisdiction of, and have been specifically approved by, another state or federal regulatory agency. If such transactions and issuances are not included in the report required by NAC 704.2725, the report must include, for informational purposes, the information filed with the other regulatory agency for approval of the transactions and issuances.

**704.2725 Report of public utility which transacts business with subsidiary or affiliate; contents. (NRS 703.025, 704.210)** At the time of filing the annual report required by NRS 703.191, a public utility which transacts business with a subsidiary or affiliate must file a report of its material transactions with each such subsidiary or affiliate. The report must contain:

1. The name of each affiliate or subsidiary.
2. The nature of each transaction conducted between the public utility and each of its affiliates or subsidiaries during the period covered by the annual report submitted to the Commission pursuant to NRS 703.191. A public utility which is subject to the requirements of subsection 4 of NAC 704.272 shall use a reporting period from the end of the test period in its last application to change general rates through the current test period.
3. A current financial statement prepared for outside users for each affiliate and subsidiary.
4. An explanation of the effect of current activities and planned activities which have been approved by the board of directors of an affiliate or subsidiary on the public utility's capital structure, including, but not limited to, organizational changes such as the creation of a holding company.

5. The basis upon which the public utility allocates costs of physical plant, revenue, and expenses to each affiliate or subsidiary, and the monetary amount involved, including, but not limited to:

- (a) An explanation of the derivation of the factors utilized to make such allocations;
- (b) Reasons supporting the derivation of the factors utilized to make such allocations;
- (c) An explanation of the methodology used in accounting for the allocation of joint, common, direct, and indirect costs between the public utility and each of its affiliates or subsidiaries; and
- (d) Reasons supporting the methodology used in accounting for the allocation of such costs.

6. A categorization of the material transactions that occurred during the reporting period between a public utility and each affiliate or subsidiary. The total dollars transferred must equal the total dollars of all categories reported.

7. The basis upon which the cost of any goods or services purchased by the public utility from an affiliate, subsidiary, or parent was determined, including a demonstration that the cost of such goods or services was reasonable in comparison with prices generally available on the open market or the fair market value of such goods or services.

8. Copies of reports or documents which substantially satisfy the requirements of NAC 704.270 to 704.273, inclusive, and which are filed by the public utility with agencies of a state or Federal Government for the reporting period of the annual report, with a statement indicating the location of and extent to which the filed reports contain the information that satisfies the requirements of NAC 704.270 to 704.273, inclusive.

**704.273 Access of Commission to certain information; maintenance of confidentiality.**  
**(NRS 703.025, 704.210)** The Commission must be provided access to the documents, data, and

records of affiliates or subsidiaries of a public utility for the purpose of verifying the information supplied pursuant to the provisions of NAC 704.270 to 704.2725, inclusive. Pursuant to NRS 703.196, the Commission will maintain the confidentiality of the documents, data, and records upon request.

## INFORMATIONAL STATEMENT

### LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY NRS 233B.066 LCB FILE R043-12 (DOCKET NO. 12-02014)

The following informational statement is submitted for adopted amendments to Nevada Administrative Code Chapters 703 and 704.

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

Copies of the proposed regulations, 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 Public Utilities Commission of Nevada (“PUCN”), <http://puc.nv.gov>, mailed to all county libraries in Nevada, published in the following newspapers:

Ely Times  
Las Vegas Review Journal  
Nevada Appeal  
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 W. Diablo Drive, Suite 250  
Las Vegas, Nevada 89148

First Judicial District Court  
885 East Musser Street  
Carson City, Nevada 89701

Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501

Eighth Judicial District Court  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, Nevada 89155

The Regulatory Operations Staff of the PUCN submitted comments. Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a/ NV Energy and the Regulatory Operations Staff of the PUCN supported the proposed regulations and offered additional modifications to clarify NAC 704.8897(4).

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 W. Diablo Drive, Suite 250, Las Vegas, Nevada 89148.

2. **The number of persons who:**
  - (a) **Attended each hearing:** August 24, 2012 - 4
  - (b) **Testified at each hearing:** 3
  - (c) **Submitted to the agency written comments:** 2
  
3. **For each person identified in subparagraphs (b) and (c) of paragraph 2, 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**

<p>Louise Uttinger          1150 E. William Street          Carson City, Nevada 89701          (775) 486-7905  <b>luttinger@puc.nv.gov</b>          Public Utilities Commission of Nevada</p>	<p>Kim Lighthart          9075 W. Diablo Drive, Suite 250          Las Vegas, Nevada 89148          (702) 486-7233  <b>klighthart@puc.nv.gov</b>          Public Utilities Commission of Nevada</p>
<p>Michael Greene          6100 Neil Road          P.O. Box 10100          Reno, Nevada 89520          (775) 834-5692          mgreene@nvenergy.com          Sierra Pacific Power Company d/b/a NV Energy          NV Power Company d/b/a NV Energy</p>	<p>Patricia Franklin          6100 Neil Road          P.O. Box 10100          Reno, Nevada 89520          (775) 834-5824          PFranklin@nvenergy.com          Sierra Pacific Power Company d/b/a NV Energy          NV Power Company d/b/a NV Energy</p>

4. **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation 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 #1.

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

The permanent regulations were adopted on September 12, 2012. Clarifying revisions were made to NAC 704.8897(4), which are highlighted. No other changes were made to the proposed regulations.

**6. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**

**(a) Both adverse and beneficial effects; and**

**(b) Both immediate and long-term effects.**

(a) Both adverse and beneficial effects:

The proposed regulations: (1) amend NAC 704.675, so that the incremental IS-2 rate is consistent with existing practices of classifying the IS-2 rate exclusive of the universal energy charge as base tariff energy rate; (2) amend NAC 704.8897 to update the regulation with current accounting practices and standards; and (3) repeal NAC 704.270 through 704.273 which require utilities to comply with annual affiliate/subsidiary transaction reporting requirements.

Amending NAC 704.675 and NAC 704.8897 may provide some time savings benefits for Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy and the Regulatory Operations Staff of the PUCN. For example, deviations from the regulations will no longer need to be requested with respect to the annual deferred energy accounting adjustment (“DEAA”) filings in NAC 704.8897. Amending NAC 704.675(3) will classify the incremental rate applicable to interruptible irrigation sales as a Base Tariff Energy Rate (“BTER”). This amendment is intended to avoid inequity to ratepayers who pay the IS-2 subsidy and will have no immediate beneficial impact on the utility.

Amending NAC 704.8897 will allow entities to comply with Generally Accepted Accounting Principles (“GAAP”) and the Federal Energy Regulatory Commission (“FERC”) reporting requirements. The addition of clarifying language to 704.8897(4) illustrates how items should be reported in FERC accounts. These accounting changes will have no immediate beneficial impact on the utility and have no immediate beneficial impact on any other business regulated by the regulation.

Repealing NAC 704.270 through 704.273 will benefit the utility because it will not have to monitor and report transactions with its subsidiaries or utilities. Utility costs, including personnel costs, might be reduced as a result of the repealing these reporting requirements. The PUCN’s resources will be further preserved due to reduced administrative time associated with receiving, processing, and storing such reports. Issues related to a utility’s transactions with its affiliates or subsidiaries may be addressed during the utility’s integrated resource planning process or current rate setting

proceeding. Furthermore, if the PUCN needs to inquire further into such a transaction, it may do so on a case-by-case basis.

(b) Both immediate and long-term effects:

See Item # 6(a).

**7. The estimated cost to the agency for enforcement of the adopted regulation.**

N/A

**8. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

These regulations do not overlap or duplicate any federal, state, or local regulations.

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

N/A

**10. 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

**11. If the 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? What methods did the agency use in determining the impact of the regulation on a small business?**

The PUCN has determined that the proposed regulations do not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business. In making this determination, the PUCN adopted the findings of Staff, which conducted a Delphi Method exercise to determine the impacts. The Delphi Method is a systematic, interactive, forecasting method based on independent inputs of selected experts.