

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

**LCB File No. R046-15**

Effective January 1, 2016

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

AUTHORITY: §§1-4, NRS 703.025, 704.210 and 704.785.

A REGULATION relating to programs for energy efficiency and conservation; revising provisions relating to the recovery by an electric utility of certain costs and amounts based on the implementation of certain programs for energy efficiency and conservation; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing regulations prescribe the manner in which an electric utility may calculate and recover certain costs and amounts relating to the implementation by the utility of a program for energy efficiency and conservation. (NAC 704.95225, 704.9523, 704.9524) **Sections 1 and 2** of this regulation authorize an electric utility to recover a certain amount based on the costs reasonably incurred by the utility in implementing and administering a program for energy efficiency and conservation. **Section 3** of this regulation repeals a provision providing for the recovery by an electric utility of a certain amount based on the measurable and verifiable effects on the revenue of the utility as the result of implementing a program for energy efficiency and conservation.

**Section 1.** NAC 704.95225 is hereby amended to read as follows:

704.95225 1. An electric utility may recover an amount based on the measurable and verifiable effects of the implementation by the electric utility of programs for energy efficiency and conservation described in the demand side plan of the electric utility and approved by the Commission pursuant to NAC 704.9494 as part of the action plan of the electric utility. The amount recovered must include:

(a) The costs reasonably incurred by the electric utility in implementing and administering the programs for energy efficiency and conservation, which are recovered pursuant to *paragraph (a) of subsection 2 of* NAC 704.9523; and

(b) ~~The measurable and verifiable effects on the revenue of the electric utility caused or created by the implementation of the programs for energy efficiency and conservation.~~ *An amount equal to the costs reasonably incurred by the electric utility in implementing and administering the programs for energy efficiency and conservation multiplied by the electric utility's authorized overall rate of return grossed up for taxes applicable to the utility's equity portion of the authorized rate of return, which ~~are~~ is recovered pursuant to paragraph (b) of subsection 2 of* NAC ~~704.9524.~~ *704.9523.*

2. Upon the request of an electric utility or intervening party or upon a motion of the Commission, the Commission may authorize an electric utility to include in the amount recovered pursuant to subsection 1 for ~~an individual program~~ *programs* for energy efficiency or conservation financial incentives to support the promotion of the participation of the customers of the electric utility in ~~the program~~ *programs* for energy efficiency or conservation. *Financial incentives must be requested on a program-by-program basis.*

3. The Commission will consider the effect of any recovery pursuant to this section on the rates of the customers of the electric utility.

**Sec. 2.** NAC 704.9523 is hereby amended to read as follows:

704.9523 1. All costs of implementing programs for energy efficiency and conservation *calculated pursuant to paragraph (a) of subsection 2 and the amounts calculated pursuant to paragraph (b) of subsection 2* must be accounted for in the books and records of an electric utility separately from *costs and* amounts attributable to any other activity. All accounts must be

maintained in a manner that will allow costs *and amounts* attributable to specific programs to be readily identified.

2. An electric utility may, pursuant to subsection 3, recover ~~all~~ :

*(a) All* reasonably incurred costs of implementing programs for energy efficiency and conservation that have been described in the demand side plan of the electric utility and approved by the Commission pursuant to NAC 704.9494 as part of the action plan of the electric utility, including, without limitation, the costs for labor, overhead, materials, incentives paid to customers, advertising, marketing, monitoring and evaluation.

*(b) An amount equal to the costs calculated pursuant to paragraph (a) multiplied by the electric utility's authorized overall rate of return grossed up for taxes applicable to the utility's equity portion of the authorized rate of return.*

3. To recover the reasonably incurred costs of implementing programs for energy efficiency and conservation ~~all~~ *calculated pursuant to paragraph (a) of subsection 2 and the amounts calculated pursuant to paragraph (b) of subsection 2*, an electric utility must:

(a) Establish and maintain separate subsidiary records of the subaccounts of FERC Account No. 182.3 (Other Regulatory Assets) for each program described in the demand side plan of the electric utility and approved by the Commission pursuant to NAC 704.9494 as part of the action plan of the electric utility. These records must clearly delineate all costs ~~incurred by the electric utility in implementing each program approved by the Commission~~ *calculated pursuant to paragraph (a) of subsection 2 and amounts calculated pursuant to paragraph (b) of subsection 2* and be maintained by program by month by rate effective period.

(b) At the time the electric utility files an annual deferred energy accounting adjustment application pursuant to subsection 3 of NRS 704.187, apply to the Commission to establish the following period-specific rates:

(1) A prospective base program cost rate which is determined by allocating in the manner approved by the Commission in the most recent general rate case of the electric utility the total cost of programs for energy efficiency and conservation that are described in the demand side plan approved by the Commission. The prospective base program cost rate for a customer class is an amount equal to the cost allocated to that customer class pursuant to this subparagraph divided by the projected kilowatt hour sales for that class for the relevant period.

(2) A deferred program cost rate to clear the period-specific balance over 12 months. The deferred program cost rate is an amount equal to the period-specific balance in the subaccount of FERC Account No. 182.3 for the cost of programs for energy efficiency and conservation divided by the applicable test period kilowatt hour sales.

*(c) At the time the electric utility files an annual deferred energy accounting adjustment application pursuant to subsection 3 of NRS 704.187, file a statement that reports the Nevada jurisdictional earned rate of return for each month of the test period for the electric utility. The Nevada jurisdictional earned rate of return must be calculated for each month of the test period on a 12-month average rate base. The statement must be accompanied by all subsidiary schedules, and any adjustments made thereto, necessary to support the calculations.*

4. *If the Nevada jurisdictional earned rate of return for the last month of the test period reported for an electric utility pursuant to paragraph (c) of subsection 3 exceeds the rate of return last authorized by the Commission to set rates for the electric utility, the electric utility*

*must, at the time the electric utility files the annual deferred energy accounting adjustment application pursuant to subsection 3 of NRS 704.187:*

*(a) File a statement that reports calculations of:*

*(1) The amount of revenue which caused the electric utility to exceed the rate of return last authorized by the Commission;*

*(2) An adjustment to the amount calculated pursuant to paragraph (b) of subsection 2; and*

*(3) The carrying charges at a monthly rate of 1/12 of the authorized overall rate of return on the adjustment amount calculated pursuant to subparagraph (2).*

*(b) Establish a rate of credits for adjustments calculated pursuant to subparagraph (2) of paragraph (a) attributable to each class of service and which are identifiable from the information maintained in accordance with paragraph (a) of subsection 3.*

*5. An electric utility must:*

*(a) Record any adjustment calculated pursuant to subparagraph (2) of paragraph (a) of subsection 4 in a subaccount of FERC Account No. 254.*

*(b) Transfer any balance which remains in the subaccount of FERC Account No. 254 at the end of the amortization period to the appropriate subaccount of FERC Account No. 182.3 for the current period.*

*(c) Maintain sufficiently detailed information to identify the amount of the adjustment attributable to each class of service.*

*6. The sum of the adjustment calculated pursuant to subparagraph (2) of paragraph (a) of subsection 4 and any adjustments for carrying charges made to subaccounts of FERC*

*Account No. 182.3 must not exceed the amount of revenue calculated pursuant to subparagraph (1) of paragraph (a) of subsection 4.*

7. An electric utility shall account for period-specific costs incurred to implement a program for energy efficiency and conservation *calculated pursuant to paragraph (a) of subsection 2, amounts calculated pursuant to paragraph (b) of subsection 2* and revenues received from the period-specific prospective base program cost rate in the following manner:

(a) On a monthly basis, the electric utility shall record in a subaccount of FERC Account No. 182.3 the program costs incurred, *amounts calculated pursuant to paragraph (b) of subsection 2* and the revenues received from the prospective base program cost rate for the program for energy efficiency and conservation.

(b) The electric utility shall apply a carrying charge at the rate of 1/12 of the authorized overall rate of return to the unamortized balance in the subaccounts of FERC Account No. 182.3. *If, in any month, the balance in a subaccount of FERC Account No. 182.3 is a debit, an adjustment amount must be calculated in an amount equal to the amount which exceeds the electric utility's last authorized rate of return that was used to set rates for the electric utility or any remainder after the rate of return has been applied to the carrying charge calculation for deferred energy pursuant to NAC 704.150.*

**Sec. 3.** NAC 704.9524 is hereby repealed.

**Sec. 4.** This regulation becomes effective on January 1, 2016.

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**TEXT OF REPEALED SECTION**

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**704.9524 Accounting for and recovery of amounts based on measurable and verifiable effects on revenue caused or created by implementation of programs for energy efficiency and conservation. (NRS 703.025, 704.210, 704.785)**

1. An electric utility may recover an amount based on the measurable and verifiable effects on the revenue of the electric utility which are caused or created by the implementation of programs for energy efficiency and conservation described in the demand side plan of the electric utility and approved by the Commission pursuant to NAC 704.9494 as part of the action plan of the electric utility.

2. To recover an amount pursuant to subsection 1, an electric utility must:

(a) Establish and maintain a separate subsidiary record of the subaccounts of FERC Account No. 182.3 (Other Regulatory Assets) for the tracking, calculation and recovery of the lost revenue associated with the programs for energy efficiency and conservation that are described in the demand side plan of the electric utility and approved by the Commission pursuant to NAC 704.9494 as part of the action plan of the electric utility.

(b) At the time the utility files an annual deferred energy accounting adjustment application pursuant to subsection 3 of NRS 704.187:

(1) Apply to the Commission to establish the following period-specific rates:

(I) A prospective base lost revenue rate which is determined by allocating lost revenue to each customer class in the manner approved by the Commission in the most recent general rate case of the electric utility. The prospective base lost revenue rate for a customer class is an amount equal to the lost revenue allocated to the customer class pursuant to this sub-subparagraph divided by the projected kilowatt hour sales for that class for the relevant period.

(II) A deferred lost revenue rate to clear the period-specific balance over 12 months. The deferred lost revenue rate is an amount equal to the period-specific balance in the subaccount of FERC Account No. 182.3 for lost revenue associated with programs for energy efficiency and conservation for each class of customers divided by the applicable test period kilowatt hour sales.

(2) File a statement that reports the Nevada jurisdictional earned rate of return for each month of the test period for the electric utility. The Nevada jurisdictional earned rate of return must be calculated for each month of the test period on a 12-month average rate base. The statement must be accompanied by all subsidiary schedules, and any adjustments made thereto, necessary to support the calculations.

3. If the Nevada jurisdictional earned rate of return for the last month of the test period reported for an electric utility pursuant to subparagraph (2) of paragraph (b) of subsection 2 exceeds the rate of return last authorized by the Commission to set rates for the utility, the utility must, at the time the utility files the annual deferred energy accounting adjustment application pursuant to subsection 3 of NRS 704.187:

(a) File a statement that reports calculations of:

(1) The amount of revenue which caused the utility to exceed the rate of return last authorized by the Commission;

(2) A lost revenue adjustment, which must be recorded in a subaccount of FERC Account No. 254; and

(3) The carrying charges at a monthly rate of 1/12 of the authorized overall rate of return on the lost revenue adjustment calculated in subparagraph (2).

(b) Establish a rate of credits for lost revenue adjustments attributable to each class of service and which are identified pursuant to the information required to be maintained by subparagraph (4) of paragraph (a) of subsection 5. Any balance which remains in the subaccount of FERC Account No. 254 at the end of the amortization period must be transferred to the lost revenue subaccount of FERC Account No. 182.3 for the current period.

4. The sum of the lost revenue adjustment calculated in subparagraph (2) of paragraph (a) of subsection 3 and any adjustments for carrying charges made to the lost revenue subaccount of FERC Account No. 254 must not exceed the amount calculated pursuant to subparagraph (1) of paragraph (a) of subsection 3.

5. An electric utility shall account for period-specific lost revenue associated with a program for energy efficiency and conservation and revenue received from the period-specific base lost revenue rate in the following manner:

(a) On a monthly basis, the electric utility shall:

- (1) Calculate the deferred lost revenue;
- (2) Calculate the recorded revenue attributable to the base lost revenue rate;
- (3) Record in the subaccount of FERC Account No. 182.3 the difference between estimated lost revenues and recorded revenue attributable to the base lost revenue rate; and
- (4) Maintain sufficiently detailed information to identify the estimated lost revenues attributable to each class of service.

(b) The electric utility shall apply a carrying charge at the rate of 1/12 of the authorized overall rate of return to the unamortized balance in the lost revenue subaccount of FERC Account No. 182.3. If, in any month, the balance in the lost revenue subaccount of FERC Account No. 182.3 is a debit, an adjustment amount must be calculated in an amount equal to the amount which exceeds the utility's last authorized rate of return that was used to set rates for the utility or any remainder after the rate of return has been applied to the carrying charge calculation for deferred energy pursuant to NAC 704.150.

6. An electric utility shall:

(a) Perform by program by month by class the monitoring and verification of actual kilowatt hour and demand savings required by NAC 704.9522;

(b) Include with the demand side plan submitted by the utility pursuant to NAC 704.934 the information described in paragraph (a) for review and approval by the Commission; and

(c) Make any adjustments to the balancing account for lost revenue, including, without limitation, carrying charges, as are necessary to reflect the results of the review by the Commission of the information submitted pursuant to paragraph (b).

7. For the purposes of this section, "lost revenue adjustment" means the lesser of:

(a) The amount of revenue calculated as required by subparagraph (1) of paragraph (a) of subsection 3; or

(b) The estimated lost revenue recorded for the test period.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS  
AS REQUIRED BY NRS 233B.066  
LCB FILE R046-15 (DOCKET NO. 14-10018)**

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

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

The rulemaking was initiated in response to the recommendations in the Order in Commission Docket No. 12-12030, an investigation regarding demand side management (“DSM”) in Nevada. Participants in Docket No. 12-12030 discussed whether the lost revenue recovery mechanism (“LRAM”) is an effective tool for eliminating NV Energy’s financial disincentive from the implementation of DSM programs and suggested alternatives to LRAM. In response to the suggestions and comments provided to the Commission by the participants in Docket 14-10018, the Commission drafted the proposed regulation to simplify the LRAM by linking revenue compensation to program costs and applying a multiplier to program costs.

**2. 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.**

The Public Utilities Commission of Nevada (“Commission”) issued a notice of rulemaking and notice of request for comments. Copies were sent by U.S. mail and email to persons who were known to have an interest in LRAM.

The Commission also issued a copy of the proposed regulations, notice of intent to act upon the regulation, and notice of workshop and hearing. Copies were sent by U.S. mail and email to persons who were known to have an interest in LRAM.

All of the above documents were also made available at the website of the Commission, <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 West Diablo Drive, Suite 250  
Las Vegas, Nevada 89148

Nevada Power Company and Sierra Pacific Power Company (together, “NV Energy”), Nevadans for Clean Affordable Reliable Energy (“NCARE”), the Sierra Club, the Attorney General’s Bureau of Consumer Protection (“BCP”), and the Regulatory Operations Staff all submitted alternative proposals in support of revenue decoupling.

Copies of the transcripts of the proceedings are available for review at the offices of the Commission, 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 each hearing:** April 21, 2015 - 7
- (b) Testified at each hearing:** April 21, 2015 - 0
- (c) Submitted to the agency written comments:** 5

**4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**

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**5. 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. See the response to question #2, above.

**4. 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 temporary regulations were adopted on June 10, 2015. Changes were not made to the proposed regulations.

**5. 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.**

The proposed regulation is expected to have no adverse immediate or long-term economic effects on the businesses that it is to regulate. The proposed regulation is expected to have beneficial immediate and long-term economic effects on the businesses that the Commission is to regulate by reducing the costs of preparing and administering the annual cost recovery filings.

The proposed regulation is expected to have no adverse immediate or long-term economic effects on the public. The proposed regulation is expected to have beneficial immediate and long-term economic effects on the public by reducing costs.

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

There is no additional cost to the agency for enforcement of these regulations.

**7. 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.

**8. 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

**9. 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

**10. 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 Commission finds that the proposed regulation does 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 Commission 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.