



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

**LCB File No. R030-23**

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

AUTHORITY: §§ 1-10, NRS 703.025, 704.210 and 704.661; § 11, NRS 703.025 and 704.210; §§ 12 and 13, NRS 703.025, 704.210, 704.661 and 704.663.

A REGULATION relating to public utilities; revising provisions governing the resource plan required to be submitted by certain utilities which furnish water or services for the disposal of sewage; revising provisions governing the determination that a project included in the action plan of a water or sewage utility is a prudent investment; authorizing a water or sewage utility to amend its action plan to request the eligibility of a project for a system improvement rate to recover the cost of the project; revising provisions governing the eligibility of projects for a system improvement rate; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires certain public utilities that furnish water or services for the disposal of sewage and which have an annual gross operating revenue of \$1,000,000 or more for at least 1 year during the immediately preceding 3 years to submit to the Public Utilities Commission of Nevada a triennial resource plan to provide sufficient water or services for the disposal of sewage to satisfy the demand made on the system of the utility by its customers. (NRS 704.661) Existing regulations require the resource plan of such a utility to include an action plan that specifies in detail the actions that the utility intends to take to meet its water demand, supply and wastewater treatment requirements during the 3 years immediately following the year in which its resource plan is filed with the Commission. (NAC 704.5651, 704.5665)

Existing law requires the Commission to adopt regulations governing its review of a request made by a utility in such a resource plan, or in any other form authorized by the Commission, to impose a surcharge to fund investment in infrastructure for the period between the filing of rate cases by the utility. (NRS 704.663) Existing regulations: (1) authorize a utility that is required to submit a resource plan to include in its resource plan a request to designate a project as an “eligible project” for which a “system improvement rate” may be established; (2) authorize a utility that is not required to submit a resource plan to submit an application to the Commission to designate a project as an eligible project for which such a system improvement rate may be established; and (3) establish a procedure by which the Commission approves or disapproves such a request or application and, if approved, establishes a system improvement rate by which the utility recovers the cost of a project during the period between the filing of rate cases by the utility. (NAC 704.63335, 704.6339-704.63435)

**Sections 1-4** of this regulation make the definitions of “eligible project” and “system improvement rate” in existing regulations applicable to existing regulations governing the resource plan of a utility.

**Section 5** of this regulation requires the summary that a utility is required to submit with its resource plan and that must be suitable for distribution to the public to include a list of projects of the utility for which the utility is seeking approval and a list of projects which the utility requests to designate as an eligible project for which a system improvement rate may be established. (NAC 704.5661)

**Section 6** of this regulation requires the analysis of the action plan of a utility to establish the priority of projects included in the action plan and establishes the criteria for a project to be deemed a high, medium or low priority project. (NAC 704.5665)

**Section 7** of this regulation requires the action plan of a utility to include, for each project for which the utility requests eligibility for the recovery of costs through a system improvement rate, a description of the project and the proposed date for placing the project in commercial operation. (NAC 704.568)

**Sections 8 and 10** of this regulation: (1) remove the criteria used by the Commission to determine whether the elements of an action plan are prudent for the purpose of determining whether the costs of those elements may be included in the determination of rates charged to customers; and (2) provide that each project included in an action plan or amendment to an action plan which is approved or modified by the Commission are deemed to be a prudent investment. (NAC 704.5682, 704.5687)

**Section 9** of this regulation authorizes a utility to amend its action plan to request that a project be designated as an eligible project for which a system improvement rate may be established if unforeseen circumstances result in an urgent need for assistance or relief.

**Section 11** of this regulation revises the definition of “eligible project” for the purposes of determining which projects are eligible for a system improvement rate. Specifically, **section 11**: (1) removes the requirement that an eligible project be an improvement to a distribution system, production system, transmission system or wastewater system and, instead, requires that an eligible project be a replacement, repair or upgrade to such a system; (2) prohibits projects undertaken during the normal course of operations and maintenance from being an eligible project for which a system improvement rate may be established; and (3) adds a requirement that for a project to be an eligible project for which a system improvement rate may be established, the project must have a total cost that is equal to or greater than a certain amount. **Section 14** of this regulation makes a conforming change to reflect the revisions to the definition of “eligible project.”

**Section 12** of this regulation requires the Commission, in determining whether to approve or disapprove a request to designate a project as an eligible project for which a system improvement rate may be established, to consider whether the project meets certain criteria.

**Section 13** of this regulation provides that a project is not eligible for a system improvement rate if the utility does not file an application within the time period established by existing regulations, which require such an application to be filed not later than 90 days after the completion of the eligible project. (NAC 704.63425) **Section 13** additionally requires a system improvement rate to be reexamined during a general rate case filed by the utility.

**Section 1.** Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

**Sec. 2.** *“Eligible project” has the meaning ascribed to it in NAC 704.63335.*

**Sec. 3.** *“System improvement rate” has the meaning ascribed to it in NAC 704.6336.*

**Sec. 4.** NAC 704.565 is hereby amended to read as follows:

704.565 As used in NAC 704.565 to 704.5688, inclusive, *and sections 2 and 3 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 704.5651 to 704.5658, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

**Sec. 5.** NAC 704.5661 is hereby amended to read as follows:

704.5661 The resource plan of a utility must be accompanied by a summary that is suitable for distribution to the public. Any tables, graphs or maps used in the summary must be easily interpretable by the public. The summary must include, without limitation:

1. A brief introduction that describes the utility, its facilities and the purpose and duration of the resource plan;
2. A statement that identifies the issues relating to the supply of water and services for the disposal of sewage and the utility’s strategy for addressing those issues;
3. *A list of projects included in the action plan for which the utility requests approval;*
4. *A list of projects included in the action plan which the utility requests to designate as an eligible project for which a system improvement rate may be established;*
5. A description of the criteria used by the utility to develop the resource plan, including, without limitation, a summary of each forecast prepared by the utility pursuant to NAC 704.5667;

~~14.1~~ 6. A statement that identifies the utility's current and projected requirements during the term of the resource plan for each of the following:

- (a) Water supply;
- (b) Water rights;
- (c) Storage;
- (d) Transmission and distribution system;
- (e) Fire flows and fire hydrants;
- (f) Wastewater treatment; and
- (g) Water conservation; and

~~15.1~~ 7. The methods that the utility proposes to use to fund the costs related to the resource plan.

**Sec. 6.** NAC 704.5665 is hereby amended to read as follows:

704.5665 1. The resource plan of a utility must include and provide an integrated analysis of the utility's:

- (a) Conservation plan;
- (b) Water supply and wastewater treatment plan;
- (c) Funding plan; and
- (d) Action plan.

2. The analysis must establish priorities among the utility's options for water conservation, water supply, wastewater treatment and funding to enable the Commission to determine the extent to which the utility's action plan balances the objectives of minimizing cost, mitigating risk and maximizing reliability of service over the term of the action plan.

*3. The analysis must establish the priority of projects included in the utility's action plan according to the following criteria:*

*(a) A high priority project is a project necessary to ensure safe and reliable service to customers.*

*(b) A medium priority project is a project that enhances service to customers, improves the efficiency of system operations or both.*

*(c) A low priority project is a project that is not a high or medium priority project.*

**Sec. 7.** NAC 704.568 is hereby amended to read as follows:

704.568 The action plan of a utility must include, without limitation:

1. An introductory section that explains how the action plan relates to the long-term plans of the utility as set forth in its resource plan;

2. A section that identifies each action for which the utility requests the approval of the Commission;

3. A section that identifies each part of the utility's conservation plan that the utility proposes to carry out during the term of the action plan; and

4. A section that identifies each part of the utility's water supply and wastewater treatment plan that the utility proposes to carry out during the term of the action plan and includes, without limitation:

(a) For each ~~facility~~ *project* for which construction will be performed during that term:

(1) The utility's plans for construction; and

(2) The utility's proposed schedule for construction, including, without limitation, the proposed dates for:

(I) The preparation of any environmental impact statements, if required;

- (II) The application for and receipt of each significant permit;
- (III) Entering into a commitment for each substantial expenditure; and
- (IV) Placing the ~~{facility}~~ *project* in commercial operation.

(b) For each ~~{facility}~~ *project* that will be acquired during that term, the proposed date for placing the ~~{facility}~~ *project* in commercial operation.

*(c) For each project which the utility requests to designate as an eligible project for which a system improvement rate may be established, a description of the project and the proposed date for placing the project in commercial operation.*

**Sec. 8.** NAC 704.5682 is hereby amended to read as follows:

704.5682 1. The Commission will ~~{}~~ *issue an order:*

- (a) ~~{Issue an order approving}~~ *Approving* the action plan of a utility as filed;
- (b) ~~{Issue an order modifying}~~ *Modifying* the action plan of a utility; or
- (c) ~~{Specify}~~ *Specifying* those parts of the action plan that the Commission ~~{considers}~~ *finds to be* inadequate.

2. ~~{An action plan shall be deemed to be approved by the Commission only as to that portion of the action plan accepted as filed or modified with the consent of the utility pursuant to subsection 5 of NRS 704.661.}~~

~~—3.—~~ If the Commission approves *or modifies* the action plan of the utility, ~~{the Commission will include}~~ *each project included* in the ~~{approval of the}~~ *approved or modified* action plan ~~{its determination that the elements contained in the action plan are prudent. The Commission will make a determination that the elements of the action plan are prudent if:~~

~~—(a) The action plan maximizes the utility's water supply and wastewater treatment capacities for the benefit of the utility's customers; and~~

~~—(b) The utility demonstrates that the action plan balances the objectives of minimizing cost, mitigating risk and maximizing reliability of service for the term of the action plan.~~

~~—4.]~~ *shall be deemed to be a prudent investment.*

3. If the Commission subsequently determines that any information relied upon when issuing its order approving or modifying the action plan was based upon information that was known or should have been known by the utility to be false when the information was presented, the Commission may revoke, rescind or otherwise modify its approval of the action plan.

**Sec. 9.** NAC 704.5684 is hereby amended to read as follows:

704.5684 1. A utility shall continually monitor its action plan and amend the action plan before it submits its next resource plan to the Commission if:

(a) The utility intends to submit an application for a permit to construct a utility facility pursuant to NRS 704.820 to 704.890, inclusive, which was not approved as part of the action plan;

(b) The utility makes a commitment for the acquisition or construction of a ~~facility~~ *project* that was not approved as part of the action plan;

(c) The utility makes a commitment for a long-term purchased water obligation which was not approved as part of the action plan;

(d) The utility is unable to place a resource in service or obtain a resource in accordance with the schedule for the resource that is included in the action plan which results in a significant deviation from the action plan;

(e) The utility makes a commitment for a resource that was not available when the action plan was approved; or

(f) The basic data used in the development of the resource plan requires substantial modification that affects the choice of a resource which was approved as part of the action plan.

2. *The utility may amend its action plan to request that a project be designated as an eligible project for which a system improvement rate may be established if unforeseen circumstances result in an urgent need for assistance or relief.*

3. The conditions under which an amendment to an action plan is requested must be specifically set forth in the application for the amendment.

~~{3.}~~ 4. As used in this section, “resource” includes, without limitation, a ~~{facility,}~~ source of water supply or water right.

**Sec. 10.** NAC 704.5687 is hereby amended to read as follows:

704.5687 1. The Commission will ~~{}~~ *issue an order:*

(a) ~~{Issue an order approving}~~ *Approving* the amendment to the action plan as filed;  
(b) ~~{Issue an order modifying}~~ *Modifying* the amendment to the action plan; or  
(c) ~~{Specify}~~ *Specifying* those parts of the amendment that the Commission ~~{considers}~~ *finds to be* inadequate.

2. ~~{An amendment to the action plan shall be deemed to be approved by the Commission only as to that portion of the amendment to the plan accepted as filed or modified with the consent of the utility pursuant to subsection 5 of NRS 704.661.~~

~~—3.—~~ If the Commission approves *or modifies* the amendment, ~~{the Commission will include}~~ *each project included* in the ~~{approval of the}~~ *approved or modified* amendment ~~{its determination that the amendment is prudent. The Commission will make a determination that the amendment is prudent if:~~

~~—(a) The amendment maximizes the utility’s water supply and wastewater treatment capacities for the benefit of the utility’s customers; and~~

~~—(b) The utility demonstrates that the amendment balances the objectives of minimizing cost, mitigating risk and maximizing the reliability of water supply and wastewater treatment for the term of the action plan.~~

~~—4.] shall be deemed to be a prudent investment.~~

3. If the Commission subsequently determines that any information relied upon when issuing its order approving or modifying the amendment was based upon information that was known or should have been known by the utility to be false when the information was presented, the Commission may revoke, rescind or otherwise modify its approval of the amendment.

**Sec. 11.** NAC 704.63335 is hereby amended to read as follows:

704.63335 “Eligible project” means ~~[an improvement]~~ *a replacement, repair or upgrade* to a distribution system, production system, transmission system or wastewater system *which is not undertaken by the utility during the normal course of operations and maintenance, whose total cost is an amount equal to or greater than the lesser of \$500,000 or 5 percent of the utility’s approved rate base in its immediately prior rate case and* that the Commission designates as being eligible for the recovery of costs through a system improvement rate pursuant to subsection 5 of NAC 704.6339.

**Sec. 12.** NAC 704.6339 is hereby amended to read as follows:

704.6339 1. A large utility may include in the action plan component of the utility’s resource plan submitted pursuant to NRS 704.661 a request to designate ~~[a project for an improvement to]~~ a distribution system, production system, transmission system or wastewater system *project* as an eligible project for which a system improvement rate may be established.

The project proposed for designation as an eligible project must be ~~fa new improvement project that is~~ included in the action plan for which the large utility seeks approval pursuant to NAC 704.5682. If the large utility furnishes both water and services for the disposal of sewage, the annual gross operating revenue of the large utility for each service must be considered separately for the purpose of determining whether the large utility is eligible to submit a request pursuant to this subsection for either service.

2. A utility that is not required to submit a resource plan pursuant to NRS 704.661 may file an application with the Commission to designate ~~fa project for an improvement to~~ a distribution system, production system, transmission system or wastewater system *project* as an eligible project for which a system improvement rate may be established.

3. A large utility submitting a request pursuant to subsection 1 or a utility submitting an application pursuant to subsection 2 shall include with the request or application:

- (a) A description of the project.
- (b) A statement explaining the necessity of the project.
- (c) The resulting benefits of the project to the utility and the customers of the utility upon the completion of the project ~~+~~, *including, without limitation, whether the project extends the useful life of existing infrastructure.*
- (d) A statement supported by written testimony that the project is not designed to increase revenues by connecting an improvement to a distribution system or wastewater system to new customers.
- (e) A statement that the project was not included in the rate base of the utility in its most recent general rate case.

(f) A statement that the project costs for which recovery will be sought represent an investment to be made by the utility and which will not be paid by another funding source, including, without limitation, a grant, developer contribution or other form of reimbursement.

(g) If submittal to the Commission is not otherwise required by law or regulation, the utility's plan for construction and the proposed schedule for construction. A plan for construction and a proposed schedule for construction submitted pursuant to this paragraph must comply with the provisions of paragraph (a) of subsection 4 of NAC 704.568.

(h) If submittal to the Commission is not otherwise required by law or regulation, a budget of planned expenditures which complies with the provisions of NAC 704.5681.

4. A large utility submitting a request pursuant to subsection 1 shall submit the information required pursuant to subsection 3 in addition to any information otherwise required to be submitted in support of an element of an action plan pursuant to NAC 704.565 to 704.5688, inclusive ~~H~~, *and sections 2 and 3 of this regulation.*

5. The Commission will:

(a) For a request submitted by a large utility pursuant to subsection 1, approve or disapprove the request at the time the Commission makes a determination with respect to the resource plan submitted by the large utility.

(b) For an application submitted by a utility pursuant to subsection 2, approve or disapprove the application not later than 135 days after the Commission receives the application.

6. *In determining whether to approve or disapprove a request submitted pursuant to subsection 1 or an application submitted pursuant to subsection 2, the Commission will consider whether the project:*

*(a) Replaces aging infrastructure;*

*(b) Materially improves service or reliability;*

*(c) Is critical to continued service or reliability; or*

*(d) Is required for statutory or regulatory compliance.*

7. As used in this section, “action plan” has the meaning ascribed to it in NAC 704.5651.

**Sec. 13.** NAC 704.63425 is hereby amended to read as follows:

704.63425 1. An application to establish a system improvement rate must be filed not later than 90 days after the completion of an eligible project. *If a utility fails to file the application within this time limit, the project will not be eligible for a system improvement rate.*

2. An application filed pursuant to subsection 1 must include:

(a) The actual cost of the eligible project and invoices supporting the calculation of the actual cost.

(b) The approved budget for the eligible project provided by the Commission pursuant to NAC 704.634.

(c) A calculation of the system improvement rate revenue requirement for each eligible project included in the system improvement rate. The system improvement rate revenue requirement for an eligible project must be calculated on an annual basis. The monthly system improvement rate revenue requirement is one-twelfth of the annual system improvement rate revenue requirement. The annual system improvement rate revenue requirement initially must be calculated using the information available on the last day of the month during which the eligible project is placed in service.

(d) The proposed system improvement rate to be collected from the customers of the utility. If the eligible project is an improvement to a distribution system, production system or transmission system, the proposed system improvement rate must be based upon water

consumption by each customer class during the 12-month period ending on the last day of the month during which the eligible project was placed in service. If the eligible project is an improvement to a wastewater system, the proposed system improvement rate must be based upon the customer class contribution to total revenues for the 12-month period ending on the last day of the month during which the eligible project was placed in service.

➡ The utility has the burden of proving the reasonableness and prudence of the costs incurred to develop the eligible project.

3. The system improvement rate revenue requirement calculated as part of an application must be recalculated in any subsequent application to establish a system improvement rate submitted pursuant to subsection 1. The system improvement rate revenue requirement must be modified annually in the manner prescribed by NAC 704.63435.

*4. A system improvement rate must be reexamined during any general rate case filed by a utility that is charging a system improvement rate.*

**Sec. 14.** NAC 704.63435 is hereby amended to read as follows:

704.63435 1. A utility that is charging a system improvement rate shall, on or before April 1 of each year after the establishment of the system improvement rate, file an application recommending continuation of the system improvement rate or an adjustment to the system improvement rate.

2. An application filed pursuant to subsection 1:

(a) Must:

(1) Provide the most current balance in the regulatory asset account for the system improvement rate.

(2) Recommend an adjustment to account for the difference between the actual revenues from the system improvement rate and the uncollected balance of the system improvement rate revenue requirement.

(b) May recommend an adjustment to account for the amortized amount of the reported balance of the regulatory asset account for the system improvement rate. If the utility does not provide a recommendation pursuant to this paragraph, the utility shall provide an explanation for the omission of the recommendation.

3. For any adjustment recommended pursuant to subsection 2:

(a) If the eligible project for which the recommendation is proposed is ~~an improvement to~~ a distribution system, production system or transmission system ~~H~~ *project*, the recommended adjustment to the system improvement rate must be based upon water consumption by each customer class during the 12-month period for which the application is filed.

(b) If the eligible project for which the recommendation is proposed is ~~an improvement to~~ a wastewater system ~~H~~ *project*, the recommended adjustment must be based upon the customer class contribution to total revenues for the 12-month period for which the application is filed.

4. If the Commission does not approve the application within 120 days after the filing date of the application, the application shall be deemed denied unless the Commission or presiding officer issues an order extending the time by which the application must be approved.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066**  
**Informational Statement**  
**LCB File No. R030-23**

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

The regulation amends to sections of the Nevada Administrative Code (“NAC”) to improve the water resource planning process and to clarify the processes for seeking System Improvement Rate eligibility for certain projects.

**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 Public Utilities Commission of Nevada (“Commission”), <https://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) Prior to the commencement of proceedings under Chapter 233B of the Nevada Revised Statutes (“NRS”), William Lyon Homes, Inc., Mountain Falls, LLC, Mountain Falls Golf Course, LLC, Mountain Falls Homeowners Association, Great Basin Water Co. (“GBWC”), the Nevada Bureau of Consumer Protection (“BCP”), and the Regulatory Operations Staff (“Staff”) of the Commission filed comments. Following commencement of NRS Chapter 233B proceedings, GBWC and BCP filed comments. GBWC proposed expanding the definition of a medium priority project in NAC 704.5665(3) to include a project that improves efficiency of system operations. GBWC otherwise generally supported the proposed regulation. BCP disagreed with the removal of “existing” in describing “existing customers” in NAC 704.5665(3), asked for the addition of the phrase “for the term of the action plan” in describing what shall be deemed to be a prudent investment in NAC 704.5682 and NAC 704.5687, disagreed with establishing an alternative threshold of \$500,000 in NAC 704.63335, and suggested clarifying that a “project” in NAC 704.63435 must be an improvement and not just a project that spends ratepayer money. BCP otherwise generally supported the proposed regulation.

(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 each hearing: 7**
- (b) Testified at each hearing: 0**
- (c) Submitted written comments: 6**

**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:**

- (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.

Prior to the commencement of proceedings under Chapter 233B of the Nevada Revised Statutes (“NRS”), William Lyon Homes, Inc., Mountain Falls, LLC, Mountain Falls Golf Course, LLC, Mountain Falls Homeowners Association, and GBWC filed comments. Following commencement of NRS Chapter 233B proceedings, GBWC and BCP filed comments. GBWC proposed expanding the definition of a medium priority project in NAC 704.5665(3) to include a project efficiency of system operations. GBWC otherwise generally supported the proposed regulation.

Comments may be accessed by searching the website of the Commission, <https://puc.nv.gov>, or by visiting the offices of the Commission, 1150 East William Street, Carson City, Nevada 89701, and 9075 West Diablo Drive, Suite 250, Las Vegas, Nevada 89148.

**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.**

The Commission changed the definition of a “medium priority project” in NAC 704.5665(3) to include a project that improves the efficiency of system operations. The rest of the regulation was adopted without change because its language accomplished the purpose of the rulemaking.

- 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 does not impose any economic effect on the businesses the regulation is to regulate.

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

The regulation does not impose any economic effect upon the public.

- 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 regulation of other State or governmental agencies.

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

See the response to question 9 above.

- 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?**

The Regulatory Operations Staff (“Staff”) of the Commission 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. Based upon Staff’s analysis, Staff recommended to the Commission that the Commission find that the proposed regulation will not impose a direct and significant economic burden on small businesses or directly restrict the formation, operation or expansion of a small business. The Commission accepted Staff’s recommendation and found that the proposed regulation does not impose a direct or 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. 18-11006 on October 31, 2024.



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

### LCB File No. R030-23 (PUCN Docket No. 18-11006)

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 October 23, 2024, Staff memorialized its conclusion 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 1.

On October 31, 2024, the PUCN issued an Order adopting the findings of Staff 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 2.

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 and 2. 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.

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 and 2.

- 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 and 2.

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.

On October 31, 2024, the PUCN issued an Order adopting the findings of Staff 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 2.

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 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* 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. *See also* Attachment 1.

**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 of 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 5<sup>th</sup> day of May, 2026.



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STEPHANIE MULLEN,  
Executive Director  
PUBLIC UTILITIES COMMISSION OF NEVADA

## BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Investigation and Rulemaking to consider alternatives to )  
improve the water resource planning process and clarify )  
the processes for seeking System Improvement Rate ) Docket No. 18-11006  
eligibility for certain projects. )  
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At a general session of the Public Utilities  
Commission of Nevada, held at its offices  
on October 29, 2024.

PRESENT: Chair Hayley Williamson  
Commissioner Tammy Cordova  
Commissioner Randy J. Brown  
Assistant Commission Secretary Trisha Osborne

### ORDER

The Public Utilities Commission of Nevada (“Commission”) makes the following  
findings and conclusions:

#### I. INTRODUCTION

The Commission opened an investigation and rulemaking, designated as Docket No. 18-11006 (“Investigation and Rulemaking”), to consider alternatives to improve the water resource planning process and clarify the processes for seeking System Improvement Rate eligibility for certain projects.

#### II. SUMMARY

The proposed regulation in Docket No. 18-11006 is neither likely to impose a direct and significant economic burden upon small businesses, nor is it likely to directly restrict the formation, operation, or expansion of a small business. Therefore, a small business impact statement pursuant to Nevada Revised Statutes (“NRS”) 233B.0608(2) is not required.

#### III. PROCEDURAL HISTORY

- On May 1, 2019, the Commission opened the Investigation and Rulemaking.
- The Commission is conducting this Investigation and Rulemaking pursuant to the NRS and the Nevada Administrative Code (“NAC”) Chapters 703 and 704, including, but not limited to, NRS 703.025 and 704.210.

- On May 1, 2019, the Commission issued a Notice of Investigation, Notice of Request for Comments, and Notice of Workshop.
- On May 29, 2019, William Lyon Homes, Inc., Mountain Falls, LLC, Mountain Falls Golf Course, LLC, and Mountain Falls Homeowners Association (collectively “WLH”), the Nevada Bureau of Consumer Protection (“BCP”), and the Regulatory Operations Staff (“Staff”) of the Commission each filed comments.
- On May 30, 2019, Great Basin Water Co. (“GBWC”) submitted late-filed comments.
- On June 12, 2019, GBWC, WLH, and Staff each filed responsive comments. That same day, the BCP filed reply comments.
- On June 18, 2019, the Commission held a Workshop. Staff, WLH, the BCP, and GBWC made appearances. The participants discussed the next procedural steps that would be undertaken in this Docket.
- On January 10, 2022, the Commission issued a Notice of Workshop.
- On February 1, 2022, the Commission held a workshop. GBWC, WLH, Staff, and the BCP attended.
- On September 23, 2022, the Commission issued a procedural order, inviting comments regarding the updated, revised copy of the proposed regulation.
- On October 7, 2022, the Commission issued a Notice of Workshop.
- On October 18, 2022, GBWC, the BCP, and Staff filed comments.
- On November 1, 2022, GBWC, the BCP, and Staff filed reply comments.
- On November 3, 2022, the Commission held a workshop. GBWC, Staff, and the BCP attended. The participants discussed the proposed regulation and the next steps that would be undertaken in this Docket.
- On September 20, 2024, the Commission issued Procedural Order No. 2, directing Staff to investigate whether the proposed regulation is likely to impact small businesses and to report to the Commission the results of its investigation.
- On October 23, 2024, Staff filed a memorandum (“Staff’s Report”) with the Commission.

#### IV. SMALL BUSINESS IMPACT REPORT

##### Staff's Report

1. Staff conducted a Delphi Method exercise to determine the impact of the proposed regulation on small businesses. (Staff's Report at 2-3). The Delphi Method is a systematic, interactive, forecasting method based on independent inputs of selected experts. (*Id.*) In this instance, the participants were members of Staff, including three Staff engineers involved in the rulemaking. (*Id.* at 3). Each participant in the exercise used his or her background and expertise to reflect upon and analyze the impact of the proposed regulation on small businesses. (*Id.*)

2. Staff provides that the proposed regulation revises provisions governing water or sewage utilities' resource-plan submissions to the Commission, revises provisions governing the determination that a project included in a water or sewage utility's action plan is a prudent investment, allows a water or sewage utility to amend its action plan to request that a project be eligible for a system improvement rate to recover the project's cost, and revises provisions governing the eligibility of projects for a system improvement rate. (*Id.*)

3. Staff states that the proposed regulation will not have direct, immediate adverse effects on small businesses or direct, immediate beneficial effects on small businesses. (*Id.*)

4. Staff states that the proposed regulation will not have direct, long-term adverse effects on small businesses or direct, long-term beneficial effects on small businesses. (*Id.* at 3-4).

5. Staff states that under the proposed regulation, the Commission might incur administrative costs to review water utilities' resource plans, but that those costs should not exceed what the Commission currently spends. (*Id.* at 4).

6. Based on the foregoing, Staff recommends that the Commission find that the proposed regulation in Docket No. 18-11006 is neither likely to impose a direct and significant economic burden on small businesses nor directly restrict the formation, operation or expansion of a small business. (*Id.*)

### **Commission Discussion and Findings**

7. The Commission finds that the proposed regulation is neither likely to impose a direct or significant economic burden upon small businesses, nor is it likely to directly restrict the formation, operation, or expansion of a small business. Therefore, a small business impact statement pursuant to NRS 233B.0608(2) is not required.

8. The Commission finds that the Delphi method was used in the determination of the impact of the proposed regulation on small businesses. The Commission further finds that the provisions of NRS 233B.0608 have been met.

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Therefore, it is ordered:

1. The proposed regulation in Docket No. 18-11006 is neither likely to impose a direct and significant economic burden upon small businesses, nor is it likely to directly restrict the formation, operation, or expansion of a small business.

By the Commission,

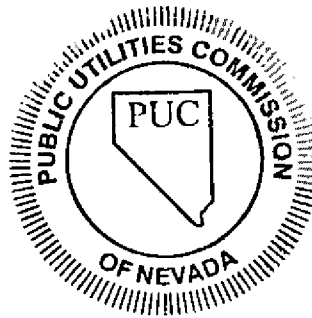
  
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TRISHA OSBORNE,  
Assistant Commission Secretary  
On behalf of the Commissioners

Certified: /s/ Stephanie Mullen  
STEPHANIE MULLEN,  
Executive Director

Dated: Carson City, Nevada

10/31/24

(SEAL)



**PUBLIC UTILITIES COMMISSION OF NEVADA  
MEMORANDUM**

**DATE:** October 15, 2024

**TO:** The Commission  
Via Anne-Marie Cuneo, DRO

**FROM:** Tori N. Sundheim, Assistant Staff Counsel

**SUBJECT:** Small Business Impact Report  
Agenda 21-24; Item No. 5A; Docket No. 18-11006;  
Investigation and Rulemaking to consider alternatives to improve the water resource planning process and clarify the processes for seeking System Improvement Rate eligibility for certain projects.

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**I. Introduction:**

On May 1, 2019, the Public Utilities Commission of Nevada (“Commission”) opened an Investigation and Rulemaking, designated as Docket No. 18-11006, to consider alternatives to improve the water resource planning process and clarify the processes for seeking System Improvement Rate eligibility for certain projects.

On May 1, 2019, the Commission issued a Notice of Investigation, Notice of Request for Comments, and Notice of Workshop.

On May 29, 2019, William Lyon Homes, Inc., Mountain Falls, LLC, Mountain Falls Golf Course, LLC, and Mountain Falls Homeowners Association (together, “WLH”), the Nevada Bureau of Consumer Protection (“BCP”), and the Regulatory Operations Staff (“Staff”) of the Commission each filed comments.

On May 30, 2019, Great Basin Water Co. (“GBWC”) submitted late-filed comments.

On June 12, 2019, GBWC, WLH, and Staff filed responsive comments and BCP filed reply comments.

On June 18, 2019, the Commission held a Workshop. Staff, WLH, BCP, and GBWC made appearances. The participants discussed the next procedural steps that would be undertaken in this Docket.

On January 10, 2022, the Commission issued a Notice of Workshop.

On February 1, 2022, the Commission held a Workshop. GBWC, WLH, Staff, and the BCP attended.

On September 23, 2022, the Commission issued a procedural order with a revised copy of the proposed regulation, inviting comments regarding the updated, revised proposed regulation.

On October 7, 2022, the Commission issued a Notice of Workshop.

On October 18, 2022, GBWC, the BCP, and Staff filed comments.

On November 1, 2022, GBWC, the BCP, and Staff filed reply comments.

On November 3, 2022, the Commission held a workshop. GBWC, Staff, and the BCP attended. The participants discussed the proposed regulation and the next steps that would be undertaken in this Docket.

On September 20, 2024, the Commission issued Procedural Order No. 2, directing Staff to investigate whether the proposed regulation is likely to impact small business as contemplated in NRS 233B.0608(1). The Commission directed Staff to present its report with the results of this investigation along with a statement identifying the methodology used in determining the impact on small business.

## **II. Investigation and Analysis:**

This briefing memo constitutes the Staff Report regarding the Small Business Impact of the proposed regulation as directed by Procedural Order No. 2.

### Standard of Review

NRS 233B.0608(1) requires an agency to make a concerted effort to determine whether a proposed regulation is likely to:

- a. impose a direct and significant economic burden upon small businesses; or
- b. directly restrict the formation, operation, or expansion of small business.

A small business is defined in NRS 233B.0382 as “a business conducted for profit which employs fewer than 150 full-time or part-time employees.” NRS 233B.0608 (1) further requires that the assessment must be made prior to conducting a workshop regarding the proposed regulation.

NRS 233B.0608(3) requires that an agency considering a proposed regulation to “prepare a statement identifying the methods used by the agency in determining the impact of a proposed regulation on a small business and the reasons for the conclusions of the agency.”

### Methodology

In accordance with NRS 233B.0608 (3), Staff used a version of the Delphi method that incorporates elements of the Policy Delphi method to determine the potential impact of a regulation on small businesses. The Delphi method is a systematic interactive forecasting method based on independent inputs of selected experts. It recognizes the value of expert

opinion, experience, and intuition and allows the use of limited information when full scientific knowledge is lacking.

Three Staff Engineers, all of whom were involved in the rulemaking and who are most familiar with the subject matter of the rulemaking, participated in this analysis. Each participant in the exercise used their background and expertise to reflect upon and analyze the impact of the regulation on small businesses. Following receipt of the written responses, the Delphi participants engaged in a critique of the other participants' responses, arriving at a consensus position.

The proposed regulation applies to public utilities in the business of furnishing water or services for the disposal of sewage. The proposed regulation (1) revises provisions governing water utility resource plan submissions to the Commission, (2) revises provisions governing the determination that a project included in the action plan of a water or sewage utility is a prudent investment, (3) authorizes a water or sewage utility to amend its action plan to request the eligibility of a project for a system improvement rate to recover the cost of the project, and (4) revises provisions governing the eligibility of projects for a system improvement rate. The purpose of these changes is to permit the recovery of larger capital costs for necessary system improvement projects only.

#### Immediate Adverse Effects:

The proposed regulation will not have any direct immediate adverse effects on small businesses. The proposed regulation relates to revisions to the plan filing requirements and implementation measures for system improvement rates. Regulation revisions include, but are not limited to, further definition regarding requirements for an application by a water utility to establish a system improvement rate.

Overall costs of service between standard rate making versus an imposed system improvement rate should be nearly identical over time. The proposed regulation reduces the scope for which a utility can request a system improvement rate for a designated project. However, the proposed regulation still allows the utility to propose projects outside the parameters of the proposed system improvement regulation.

#### Immediate Beneficial Effects:

The proposed regulation will not have any direct immediate beneficial effects on small businesses. The proposed regulation affects cost recovery and should not change the underlying cost.

#### Long-Term Adverse Effects:

Similar to the immediate adverse effects outlined previously, the proposed regulation will not have any direct long-term adverse effects on small businesses. The reduction in the scope for which a utility can request a system improvement rate for a designated project will have a long-term effect on the utility as it will reduce the number of projects which the utility may propose a system improvement rate during the integrated resource planning process. However, as stated

herein, the proposed regulation still allows the utility to propose projects outside the parameters of the proposed system improvement regulation. Therefore, overall adverse effects on the utility should be minimal, if any.

#### Long-Term Beneficial Effects:

Similar to the immediate adverse effects outlined previously, the proposed regulation will not have any direct long-term beneficial effects on small businesses. The reduction in the scope for which a utility can request a system improvement rate for a designated project should have no beneficial impact on the utility.

#### Cost to the Commission to enforce or administer the proposed regulation, including start-up and ongoing costs:

Under the proposed regulation, the Commission may incur on-going administrative costs to review the resource plans required to be submitted by water utilities. While exact costs are unknown at this time, they should not exceed what the Commission currently experiences.

As a result of the investigation, Staff concludes that the proposed regulation is intended to regulate the activities of water utilities, not small businesses. The proposed regulation is not likely to: (a) impose a direct and significant economic burden upon small business; or (b) directly restrict the formation, operation, or expansion of small business. Therefore, a small business impact statement pursuant to NRS 233B.0608(2) is not required.

### **III. Notice and Subsequent Action:**

On September 20, 2024, the Commission issued Procedural Order No. 2, directing Staff to investigate pursuant to NRS 233B.0608(1) 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.

### **IV. Conclusion:**

The proposed regulation is intended to regulate the activities of water utilities, not small businesses.

Staff recommends that, in accordance with NRS 233B.0608(1), the Commission find that the proposed regulation is not likely to impose a direct or significant economic burden on a small business, or to restrict the formation, operation or expansion of a small business.

Staff further recommends that, pursuant to NRS 233B.0608(3), the Commission state that the Delphi method was used in the determination of the impact of the proposed regulation on small business.