

Senate Bill 300 Amendment
Senator Chris Brooks
May 7, 2019

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 18, inclusive, of this act.

Sec. 5. *As used in sections 5 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 to 15, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 6. *“Alternative rate-making mechanism” means a rate-making mechanism in an alternative rate-making plan and includes, without limitation, performance-based rates, formula rates, multi-year rate plans, subscription pricing, an earnings-sharing mechanism, decoupling mechanism or any other rate-making mechanism authorized by the Commission by regulation.*

Sec. 7. *“Alternative rate-making plan” means a plan that would implement one or more alternative rate-making mechanisms to be used in addition to or in place of the rate-making process established by NRS 704.110.*

Sec. 8. *“Decoupling mechanism” means a mechanism that disassociates an electric utility’s financial performance and results from the sales of electricity by the electric utility.*

Sec. 9. *“Earnings-sharing mechanism” means a mechanism designed by the Commission that requires an electric utility to share earnings with its ~~fully bundled~~ customers ~~if such earnings are above a specific percentage of return on equity.~~*

Sec. 10. *“Electric utility” has the meaning ascribed to it in NRS 704.187.*

Sec. 11. *“Formula rates” means rates that are periodically adjusted based on a predetermined formula approved by the Commission without the need for an electric utility to file a general rate application pursuant to NRS 704.110.*

Sec. 12. *“Fully bundled customer” means a customer of an electric utility who receives energy, transmission, distribution and ancillary services from the electric utility.*

Sec. 13. *“Multi-year rate plan” means a rate mechanism under which the Commission sets rates and revenue requirements for a multi-year plan period of more than 36 months, including, without limitation, a plan which authorizes periodic changes in rates, including, without limitation, adjustments to accounts for inflation or capital investments, without a general rate application.*

Sec. 14. *“Performance-based rates” means rates that are set or adjusted based on the performance of an electric utility as determined by such performance metrics as the Commission may establish.*

Sec. 15. *“Subscription pricing” means a rate offering to the customers of an electric utility that is based upon a set, subscription-based fee and may include other conditions for the subscription-based rate.*

Sec. 16. *The Commission shall adopt regulations to establish procedures for an electric utility to apply to the Commission for the approval of an alternative rate-making plan. The regulations must:*

1. Establish the alternative rate-making mechanisms that may be included in such a plan and any limitations on such alternative rate-making mechanisms as the Commission deems appropriate, including, without limitation, any restrictions on the types of alternative rate-making mechanisms that may be used in concert within the same alternative rate-making plan.

2. Provide the information that must be included in an alternative rate-making plan and an application submitted pursuant to the regulations adopted pursuant to this section.

3. Specify the circumstances under which an electric utility for which the Commission has approved an alternative rate-making plan is required to file a general rate application pursuant to NRS 704.110 including, without limitation, if the alternative rate-making plan ceases to meet the criteria established by the Commission pursuant to subsection 5.

4. Provide a process to educate customers of an electric utility regarding the available alternative rate-making mechanisms that may be included in an alternative rate-making plan.

5. Establish requirements for an electric utility to maintain a set of books and records that would satisfy the application submission requirements set forth in NRS 704.110 and NRS 704.187.

6. If the Commission determines that it is practicable, establish a requirement that an electric utility file a cost of service study or multiple different types of cost of service studies if the electric utility files an alternative ratemaking plan in accordance with section 17 of this act.

7. If the Commission determines that it is practicable, establish a requirement that an electric utility include in its application an analysis comparing rates that would be charged or revenue expected to be collected under a general rate application conducted in accordance with NRS 704.110 with rates that would be charged or revenue expected to be collected pursuant to the proposed alternative ratemaking plan.

8.5. Establish criteria for the evaluation of an alternative rate-making plan which may include, without limitation, whether the plan:

(a) Aligns an economically viable utility model with state public policy goals.

(b) Provides for just and reasonable rates that are comparable to rates established pursuant to NRS 704.110.

(c) Enables the delivery of electric service and options for services and pricing that customers value including, without limitation, the development and the use of renewable resources by customers that prioritize such resources above other factors, including price.

(d) Fosters statewide improvements to the economic and operational efficiency of the electrical grid.

(e) Furthers the public interest including, without limitation, the promotion of safe, economic, efficient and reliable electric service to all customers of the electric utility.

- (f) *Enhances the resilience and security of the electrical grid while addressing concerns regarding customer privacy.*
- (g) *Ensures that customers of an electric utility benefit from lower regulatory administrative costs where appropriate.*
- (h) *Facilitates the research and development of innovative electric utility services and options to benefit customers.*
- (i) *Balances the interests of customers and shareholders by providing for services that customers want while preserving reasonable shareholder value.*
- (j) *Provides that customers of the electric utility have an opportunity to share in an electric utility's earnings, taking into account each customer class's contributions to electric utility earnings.*

9 6. *The Commission is not required to accept applications to establish an alternative rate-making plan if the Commission determines, after a reasonable investigation, that the use of alternative rate-making plan is not consistent with the criteria established by the Commission pursuant to subsection 8 5.*

Sec. 17. 1. *Except as otherwise provided in subsection 9 6 of section 16 of this act, and in accordance with the regulations adopted by the Commission pursuant to section 16 of this act, an electric utility that primarily serves less densely populated counties may apply after the first Monday in January 2020 to the Commission to establish an alternative rate-making plan which sets forth the alternative rate-making mechanisms to be used to establish rates during the time period covered by the plan. Except as otherwise provided in subsection 9 of section 16 of this act, and in accordance with the regulations adopted by the Commission pursuant to section 16 of this act, an electric utility that primarily serves more densely populated counties may apply after the first Monday in January 2021 to the Commission to establish an alternative rate-making plan which sets forth the alternative rate-making mechanisms to be used to establish rates during the time period covered by the plan. The Commission shall approve, with or without modifications, or deny the application not later than 210 days after the Commission receives a copy of the application unless the Commission, upon good cause, extends by not more than 90 days the time to act upon the application. If the Commission fails to act upon an application within the time provided by this subsection, the application shall be deemed to be denied.*

~~2.~~ *Upon the request of an electric utility, the Commission may extend the time by which the electric utility is required to file its next general rate application pursuant to subsection 3 of NRS 704.110 while the application submitted pursuant to subsection 1 is pending.*

~~2 3.~~ *The Commission shall conduct at least one consumer session pursuant to NRS 704.069 to solicit comments from the public before taking action on an application submitted pursuant to subsection 1.*

~~3 4.~~ *The Commission shall not approve an application submitted pursuant to subsection 1 unless the Commission determines that the plan:*

- (a) *Is in the public interest;*
- (b) *Results in Commission-approved just and reasonable rates for the fully bundled customers of the electric utility;*
- (c) *Adequately p*~~rotects~~*protects the interests of the customers of the electric utility consumers;*
- (d) *Satisfies the criteria established by the Commission pursuant to subsection 7 5 of section 16 of this act;*

- (e) Specifies the time period to which the plan applies; and
- (f) Includes a plan for educating the customers of the electric utility regarding the alternative rate-making mechanisms included in the plan.

4 5. An alternative rate-making plan may include, without limitation:

(a) An earnings-sharing mechanism that balances the interests of ~~retail~~ customers that purchase electricity for consumption in this State and the shareholders of the electric utility.

~~(b) A provision authorizing any customer or the Commission to initiate a complaint or investigation pursuant to NRS 704.120.~~

~~(b) A term or condition waiving or extending beyond 36 months the requirement that the electric utility regularly file a general rate application every 36 months pursuant to subsection 3 of NRS 704.110.~~

~~(c) Any other term or condition proposed by an electric utility or any party participating in the proceeding or that the Commission finds is reasonable and serves the public interest.~~

5. Pursuant to the Commission's authority under NRS 704.120, the Commission may, upon its own motion or after receiving a complaint from any customer, the Consumer's Advocate, or the Regulatory Operations Staff, and after a hearing and due investigation, substitute just and reasonable rates, regulations, practices, or services for those established through an alternative rate-making plan.

Sec. 18. *The provisions of sections 5 to 18, inclusive, of this act must not be construed to limit the existing rate-making authority of the Commission.*

Sec. 19. NRS 704.100 is hereby amended to read as follows:

704.100 1. Except as otherwise provided in NRS 704.075 and 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 . ~~or~~ 704.097 ~~;~~ ***or section 17 of this act:***

(a) A public utility shall not make changes in any schedule, unless the public utility:

- (1) Files with the Commission an application to make the proposed changes and the Commission approves the proposed changes pursuant to NRS 704.110; or
- (2) Files the proposed changes with the Commission using a letter of advice in accordance with the provisions of paragraph (f) or (g).

(b) A public utility shall adjust its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8 of NRS 704.110 based on changes in the public utility's recorded costs of natural gas purchased for resale.

(c) An electric utility shall, between annual deferred energy accounting adjustment applications filed pursuant to NRS 704.187, adjust its rates on a quarterly basis pursuant to subsection 10 of NRS 704.110.

(d) A public utility shall post copies of all proposed schedules and all new or amended schedules in the same offices and in substantially the same form, manner and places as required by NRS 704.070 for the posting of copies of schedules that are currently in force.

(e) A public utility may not set forth as justification for a rate increase any items of expense or rate base that previously have been considered and disallowed by the Commission, unless those items are clearly identified in the application and new facts or considerations of policy for each item are advanced in the application to justify a reversal of the prior decision of the Commission.

(f) Except as otherwise provided in paragraph (g), if the proposed change in any schedule does not change any rate or will result in an increase in annual gross operating revenue in an amount that does not exceed \$15,000:

(1) The public utility may file the proposed change with the Commission using a letter of advice in lieu of filing an application;
and

(2) The Commission shall determine whether it should dispense with a hearing regarding the proposed change.

A letter of advice filed pursuant to this paragraph must include a certification by the attorney for the public utility or an affidavit by an authorized representative of the public utility that to the best of the signatory's knowledge, information and belief, formed after a reasonable inquiry, the proposed change in schedule does not change any rate or result in an increase in the annual gross operating revenue of the public utility in an amount that exceeds \$15,000.

(g) If the applicant is a small-scale provider of last resort and the proposed change in any schedule will result in an increase in annual gross operating revenue in an amount that does not exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less:

(1) The small-scale provider of last resort may file the proposed change with the Commission using a letter of advice in lieu of filing an application if the small-scale provider of last resort:

(I) Includes with the letter of advice a certification by the attorney for the small-scale provider of last resort or an affidavit by an authorized representative of the small-scale provider of last resort that to the best of the signatory's knowledge, information and belief, formed after a reasonable inquiry, the proposed change in schedule does not change any rate or result in an increase in the annual gross operating revenue of the small-scale provider of last resort in an amount that exceeds \$50,000 or 10 percent, whichever is less;

(II) Demonstrates that the proposed change in schedule is required by or directly related to a regulation or order of the Federal Communications Commission; and

(III) Except as otherwise provided in subsection 2, files the letter of advice not later than 5 years after the Commission has issued a final order on a general rate application filed by the applicant in accordance with subsection 3 of NRS 704.110; and

(2) The Commission shall determine whether it should dispense with a hearing regarding the proposed change.

□ Not later than 10 business days after the filing of a letter of advice pursuant to subparagraph (1), the Regulatory Operations Staff of the Commission or any other interested party may file with the Commission a request that the Commission order an applicant to file a general rate application in accordance with subsection 3 of NRS 704.110. The Commission may hold a hearing to consider such a request.

(h) In making the determination pursuant to paragraph (f) or (g), the Commission shall first consider all timely written protests, any presentation that the Regulatory Operations Staff of the Commission may desire to present, the application of the public utility and any other matters deemed relevant by the Commission.

2. An applicant that is a small-scale provider of last resort may submit to the Commission a written request for a waiver of the 5-year period specified in sub-subparagraph (III) of subparagraph (1) of paragraph (g) of subsection 1. The Commission shall, not later than 90 days after receipt of such a request, issue an order approving or denying the request. The Commission may approve the request if the applicant provides proof satisfactory to the Commission that the

applicant is not earning more than the rate of return authorized by the Commission and that it is in the public interest for the Commission to grant the request for a waiver. The Commission shall not approve a request for a waiver if the request is submitted later than 7 years after the issuance by the Commission of a final order on a general rate application filed by the applicant in accordance with subsection 3 of NRS 704.110. If the Commission approves a request for a waiver submitted pursuant to this subsection, the applicant shall file the letter of advice pursuant to subparagraph (1) of paragraph (g) of subsection 1 not earlier than 120 days after the date on which the applicant submitted the request for a waiver pursuant to this subsection, unless the order issued by the Commission approving the request for a waiver specifies a different period for the filing of the letter of advice.

3. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 20. NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 and 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097:

1. If a public utility files with the Commission an application to make changes in any schedule, including, without limitation, changes that will result in a discontinuance, modification or restriction of service, the Commission shall investigate the propriety of the proposed changes to determine whether to approve or disapprove the proposed changes. If an electric utility files such an application and the application is a general rate application or an annual deferred energy accounting adjustment application, the Consumer's Advocate shall be deemed a party of record.

2. Except as otherwise provided in subsection 3, if a public utility files with the Commission an application to make changes in any schedule, the Commission shall, not later than 210 days after the date on which the application is filed, issue a written order approving or disapproving, in whole or in part, the proposed changes.

3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. Except as otherwise provided in subsection 4, in determining whether to approve or disapprove any increased rates, the Commission shall consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the date on which the certification required by this subsection is filed with the Commission, or within the period set forth in subsection 2,

whichever time is longer, the Commission shall make such order in reference to the increased rates as is required by this chapter. The following public utilities shall each file a general rate application pursuant to this subsection based on the following schedule:

(a) An electric utility that primarily serves less densely populated counties shall file a general rate application ~~{not}~~ :

(1) *Not* later than 5 p.m. on or before the first Monday in June ~~{2010,}~~ 2019; and ~~{at least once}~~

(2) *Once* every 36 months thereafter ~~{}~~ *or on a date specified in an alternative rate-making plan approved by the Commission pursuant to section 17 of this act.*

(b) An electric utility that primarily serves densely populated counties shall file a general rate application ~~{not}~~ :

(1) *Not* later than 5 p.m. on or before the first Monday in June ~~{2011,}~~ 2020; and ~~{at least once}~~

(2) *Once* every 36 months thereafter ~~{}~~ *or on a date specified in an alternative rate-making plan approved by the Commission pursuant to section 17 of this act.*

(c) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of \$2,000,000 or more for at least 1 year during the immediately preceding 3 years and which had not filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2008, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service.

(d) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of \$2,000,000 or more for at least 1 year during the immediately preceding 3 years and which had filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2009, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service. The Commission shall adopt regulations setting forth standards for waivers pursuant to paragraphs (c) and (d) and for including the costs incurred by the public utility in preparing and presenting the general rate application before the effective date of any change in rates.

4. In addition to submitting the statement required pursuant to subsection 3, a public utility may submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances. If such a statement is filed, it must include all increases and decreases in revenue and expenses which may occur within 210 days after the date on which its general rate application is filed with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy. If a public utility submits such a statement, the public utility has the burden of proving that the expected changes in circumstances set forth in the statement are reasonably known and are measurable with reasonable accuracy.

The Commission shall consider expected changes in circumstances to be reasonably known and measurable with reasonable accuracy if the expected changes in circumstances consist of specific and identifiable events or programs rather than general trends, patterns or developments, have an objectively high probability of occurring to the degree, in the amount and at the time expected, are primarily measurable by recorded or verifiable revenues and expenses and are easily and objectively calculated, with the calculation of the expected changes relying only secondarily on estimates, forecasts, projections or budgets. If the Commission determines that the public utility has met its burden of proof:

(a) The Commission shall consider the statement submitted pursuant to this subsection and evidence relevant to the statement, including all reasonable projected or forecasted offsets in revenue and expenses that are directly attributable to or associated with the expected changes in circumstances under consideration, in addition to the statement required pursuant to subsection 3 as evidence in establishing just and reasonable rates for the public utility; and

(b) The public utility is not required to file with the Commission the certification that would otherwise be required pursuant to subsection 3.

5. If a public utility files with the Commission an application to make changes in any schedule and the Commission does not issue a final written order regarding the proposed changes within the time required by this section, the proposed changes shall be deemed to be approved by the Commission.

6. If a public utility files with the Commission a general rate application, the public utility shall not file with the Commission another general rate application until all pending general rate applications filed by that public utility have been decided by the Commission unless, after application and hearing, the Commission determines that a substantial financial emergency would exist if the public utility is not permitted to file another general rate application sooner. The provisions of this subsection do not prohibit the public utility from filing with the Commission, while a general rate application is pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection 7, a quarterly rate adjustment pursuant to subsection 8 or 10, any information relating to deferred accounting requirements pursuant to NRS 704.185 or an annual deferred energy accounting adjustment application pursuant to NRS 704.187, if the public utility is otherwise authorized to so file by those provisions.

7. A public utility may file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale once every 30 days. The provisions of this subsection do not apply to:

(a) An electric utility which is required to adjust its rates on a quarterly basis pursuant to subsection 10; or

(b) A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis pursuant to subsection 8.

8. A public utility which purchases natural gas for resale must request approval from the Commission to adjust its rates on a quarterly basis between annual rate adjustment applications based on changes in the public utility's recorded costs of natural gas purchased for resale. A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis may request approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. The Commission shall approve or deny such a request not later than 120 days after the application is filed with the

Commission. The Commission may approve the request if the Commission finds that approval of the request is in the public interest. If the Commission approves a request to make quarterly adjustments to the deferred energy accounting adjustment of a public utility pursuant to this subsection, any quarterly adjustment to the deferred energy accounting adjustment must not exceed 2.5 cents per therm of natural gas. If the balance of the public utility's deferred account varies by less than 5 percent from the public utility's annual recorded costs of natural gas which are used to calculate quarterly rate adjustments, the deferred energy accounting adjustment must be set to zero cents per therm of natural gas.

9. If the Commission approves a request to make any rate adjustments on a quarterly basis pursuant to subsection 8:

(a) The public utility shall file written notice with the Commission before the public utility makes a quarterly rate adjustment. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the public utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission;

(IV) A statement that the transactions and recorded costs of natural gas which are the basis for any quarterly rate adjustment will be reviewed for reasonableness and prudence in the next proceeding held by the Commission to review the annual rate adjustment application pursuant to paragraph (d); and

(V) Any other information required by the Commission.

(c) The public utility shall file an annual rate adjustment application with the Commission. The annual rate adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual rate adjustment application must include a review of each quarterly rate adjustment and the transactions and recorded costs of natural gas included in each quarterly filing and the annual rate adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was

undertaken, managed or performed imprudently by the public utility, and the Commission shall order the public utility to adjust its rates if the Commission determines that any recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application were not reasonable or prudent.

10. An electric utility shall adjust its rates on a quarterly basis based on changes in the electric utility's recorded costs of purchased fuel or purchased power. In addition to adjusting its rates on a quarterly basis, an electric utility may request approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. The Commission shall approve or deny such a request not later than 120 days after the application is filed with the Commission. The Commission may approve the request if the Commission finds that approval of the request is in the public interest. If the Commission approves a request to make quarterly adjustments to the deferred energy accounting adjustment of an electric utility pursuant to this subsection, any quarterly adjustment to the deferred energy accounting adjustment must not exceed 0.25 cents per kilowatt-hour of electricity. If the balance of the electric utility's deferred account varies by less than 5 percent from the electric utility's annual recorded costs for purchased fuel or purchased power which are used to calculate quarterly rate adjustments, the deferred energy accounting adjustment must be set to zero cents per kilowatt-hour of electricity.

11. A quarterly rate adjustment filed pursuant to subsection 10 is subject to the following requirements:

(a) The electric utility shall file written notice with the Commission on or before August 15, 2007, and every quarter thereafter of the quarterly rate adjustment to be made by the electric utility for the following quarter. The first quarterly rate adjustment by the electric utility will take effect on October 1, 2007, and each subsequent quarterly rate adjustment will take effect every quarter thereafter. The first quarterly adjustment to a deferred energy accounting adjustment must be made pursuant to an order issued by the Commission approving the application of an electric utility to make quarterly adjustments to its deferred energy accounting adjustment. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The electric utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The electric utility shall begin providing such written notice to its customers not later than 30 days after the date on which the electric utility files a written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the electric utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission;

(IV) A statement that the transactions and recorded costs of purchased fuel or purchased power which are the basis for any quarterly rate adjustment will be reviewed for reasonableness and

prudence in the next proceeding held by the Commission to review the annual deferred energy accounting adjustment application pursuant to paragraph (d); and

(V) Any other information required by the Commission.

(c) The electric utility shall file an annual deferred energy accounting adjustment application pursuant to NRS 704.187 with the Commission. The annual deferred energy accounting adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual deferred energy accounting adjustment application must include a review of each quarterly rate adjustment and the transactions and recorded costs of purchased fuel and purchased power included in each quarterly filing and the annual deferred energy accounting adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application, and the electric utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the electric utility to recover any recorded costs of purchased fuel and purchased power which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the electric utility, and the Commission shall order the electric utility to adjust its rates if the Commission determines that any recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application were not reasonable or prudent.

12. If an electric utility files an annual deferred energy accounting adjustment application pursuant to subsection 11 and NRS 704.187 while a general rate application is pending, the electric utility shall:

(a) Submit with its annual deferred energy accounting adjustment application information relating to the cost of service and rate design; and

(b) Supplement its general rate application with the same information, if such information was not submitted with the general rate application.

13. A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the Commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto, or the retirement or elimination of a utility facility identified in an emissions reduction and capacity replacement plan submitted pursuant to NRS 704.7316 and accepted by the Commission for retirement or elimination pursuant to NRS 704.751 and the regulations adopted pursuant thereto, shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing, or retiring or eliminating, as applicable, such a facility. For the purposes of this subsection, a plan or an amendment to a plan shall be deemed to be accepted by the Commission only as to that portion of the plan or amendment accepted as filed or modified with the consent of the utility pursuant to NRS 704.751.

14. In regard to any rate or schedule approved or disapproved pursuant to this section, the Commission may, after a hearing:

(a) Upon the request of the utility, approve a new rate but delay the implementation of that new rate:

(1) Until a date determined by the Commission; and

- (2) Under conditions as determined by the Commission, including, without limitation, a requirement that interest charges be included in the collection of the new rate; and
- (b) Authorize a utility to implement a reduced rate for low-income residential customers.
15. The Commission may, upon request and for good cause shown, permit a public utility which purchases natural gas for resale or an electric utility to make a quarterly adjustment to its deferred energy accounting adjustment in excess of the maximum allowable adjustment pursuant to subsection 8 or 10.
16. A public utility which purchases natural gas for resale or an electric utility that makes quarterly adjustments to its deferred energy accounting adjustment pursuant to subsection 8 or 10 may submit to the Commission for approval an application to discontinue making quarterly adjustments to its deferred energy accounting adjustment and to subsequently make annual adjustments to its deferred energy accounting adjustment. The Commission may approve an application submitted pursuant to this subsection if the Commission finds that approval of the application is in the public interest.
17. As used in this section:
- (a) “Deferred energy accounting adjustment” means the rate of a public utility which purchases natural gas for resale or an electric utility that is calculated by dividing the balance of a deferred account during a specified period by the total therms or kilowatt-hours which have been sold in the geographical area to which the rate applies during the specified period.
- (b) “Electric utility” has the meaning ascribed to it in NRS 704.187.
- (c) “Electric utility that primarily serves densely populated counties” means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 700,000 or more than it does from customers located in counties whose population is less than 700,000.
- (d) “Electric utility that primarily serves less densely populated counties” means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is less than 700,000 than it does from customers located in counties whose population is 700,000 or more.
- Sec. 21.** The provisions of this act must not be construed to invalidate the effectiveness of any rate, charge, classification or joint rate fixed by the Commission before the effective date of this act, and such rates, charges, classifications and joint rates remain in force, and are prima facie lawful, from the date of the order of the Commission fixing such rates, charges, classifications and joint rates until changed or modified by the Commission, or pursuant to NRS 703.373 to 703.376, inclusive.
- Sec. 22.** NRS 704.777 is deleted.
- Sec. 23.** This act becomes effective upon passage and approval.

Deleted Language

NRS 704.777 Commission required to open investigatory docket to establish methods to determine impact of net metering on rates; biennial report to Legislature.

1. The Commission shall open an investigatory docket to establish a methodology to determine the impact, if any, of net metering pursuant to [NRS 704.766](#) to [704.777](#), inclusive, on rates charged by a utility to its customers in this State.

2. On or before June 30, 2020, and biennially thereafter, the Commission shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a report concerning the impact of net metering pursuant to [NRS 704.766](#) to [704.777](#), inclusive, on rates charged by a utility to its customers in this State. The report must contain:

(a) Based on the methodology established pursuant to subsection 1, calculations of:

(1) Whether net metering pursuant to [NRS 704.766](#) to [704.777](#), inclusive, has an impact on rates charged by a utility to its customers in this State; and

(2) The amount of any increase or decrease in such rates as a result of net metering pursuant to [NRS 704.766](#) to [704.777](#), inclusive;

(b) An explanation of the methodology used to make the calculations required by paragraph (a);

(c) The data used to make the calculations required by paragraph (a), including, without limitation, avoided generation capacity, avoided transmission and generation capacity and avoided system upgrades;

(d) A comparison of the impact on rates of net metering pursuant to [NRS 704.766](#) to [704.777](#), inclusive, and the impact on rates of capital expenditures by the utility;

(e) A description of the process for obtaining input from stakeholders in developing the methodology required by subsection 1; and

(f) A summary of comments on the written report from interested persons.