

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Investigation and Rulemaking to amend, adopt, and/or)
repeal regulations in accordance with Senate Bill 329) Docket No. 19-06009
(2019).)
_____)

NOTICE OF INTENT TO ACT UPON A REGULATION,
NOTICE OF WORKSHOP, AND NOTICE OF HEARING FOR THE ADOPTION,
AMENDMENT, AND REPEAL OF REGULATIONS OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA

On June 6, 2019, the Public Utilities Commission of Nevada (“Commission”) opened an investigation and rulemaking to implement Senate Bill 329 (2019) (“SB 329”). This rulemaking is designated as Docket No. 19-06009. On January 30, 2020, the Commission issued an Order adopting the proposed regulation as a permanent regulation. On December 30, 2020, the Commission reopened its investigation and rulemaking to amend, adopt, and/or repeal regulations in accordance with SB 329.

This investigation and rulemaking is conducted pursuant to the Nevada Revised Statutes (“NRS”) and Nevada Administrative Code (“NAC”) Chapters 233B, 703, and 704, including, but not limited to NRS 703.025, 704.210, and 704.7983.

NOTICE IS HEREBY GIVEN that the Commission has scheduled a WORKSHOP pursuant to NRS 233B.061(2) to be held as follows:

TUESDAY, JUNE 21, 2022
10:00 A.M.
Hearing Room A
Public Utilities Commission of Nevada
1150 East William Street
Carson City, Nevada 89701

///

///

VIA VIDEOCONFERENCE TO:

Hearing Room A
Public Utilities Commission of Nevada
9075 West Diablo Drive, Suite 250
Las Vegas, NV 89148

And VIA MICROSOFT TEAMS

The participants will appear and otherwise participate in the workshop either in person at one of the above noted locations or remotely via Microsoft Teams. The participants should provide the email address, title/role in associated business or organization, and business address for each person who intends to participate via Microsoft Teams to Commission Administrative Attorney Chad Morabito at cmorabito@puc.nv.gov no later than MONDAY, JUNE 20, 2022, at 2:00 P.M.

Members of the public can access the workshop at the time noticed herein either in person or via the Commission's live stream link on its website at <https://puc.nv.gov>.

During the date and time noticed herein the public may participate in person at:

Hearing Room A
Public Utilities Commission of Nevada
1150 East William Street
Carson City, Nevada 89701

VIA VIDEOCONFERENCE TO

Hearing Room A
Public Utilities Commission of Nevada
9075 West Diablo Drive, Suite 250
Las Vegas, Nevada 89148

The purpose of the workshop is to solicit comments from all interested persons on the proposed regulation regarding the requirements for an electric utility to develop and implement a natural disaster protection plan, which is attached hereto as Attachment 1. A period will be

provided for comments by the general public and discussion of those comments. Public comments may be limited to two (2) minutes per person at the discretion of the presiding officer.

The Commission is not responsible for providing clerical or administrative assistance or materials to parties during Commission proceedings. If such assistance is necessary, parties must make other arrangements for this type of assistance.

NOTICE IS HEREBY GIVEN that the Commission has scheduled a HEARING pursuant to NRS 233B.061(2) to be held as follows:

THURSDAY, JUNE 23, 2022
11:00 A.M.
Hearing Room A
Public Utilities Commission of Nevada
1150 East William Street
Carson City, Nevada 89701

VIA VIDEOCONFERENCE TO:

Hearing Room A
Public Utilities Commission of Nevada
9075 West Diablo Drive, Suite 250
Las Vegas, NV 89148

And VIA MICROSOFT TEAMS

The participants will appear and otherwise participate in the hearing either in person at one of the above noted locations or remotely via Microsoft Teams. The participants should provide the email address, title/role in associated business or organization, and business address for each person who intends to participate via Microsoft Teams to Commission Administrative Attorney Chad Morabito at cmorabito@puc.nv.gov no later than WEDNESDAY, JUNE 22, 2022, at 2:00 P.M.

Members of the public can access the hearing at the time noticed herein either in person or via the Commission's live stream link on its website at <https://puc.nv.gov>.

During the date and time noticed herein the public may participate in person at:

Hearing Room A
Public Utilities Commission of Nevada
1150 East William Street
Carson City, Nevada 89701

VIA VIDEOCONFERENCE TO

Hearing Room A
Public Utilities Commission of Nevada
9075 West Diablo Drive, Suite 250
Las Vegas, Nevada 89148

The purpose of the hearing is to solicit comments from all interested persons on the proposed regulation regarding the requirements for an electric utility to develop and implement a natural disaster protection plan, which is attached hereto as Attachment 1. A period will be provided for comments by the general public and discussion of those comments. Public comments may be limited to two (2) minutes per person at the discretion of the presiding officer.

This matter is on file and available for public viewing at the Commission's website at: <https://puc.nv.gov> and at the offices of the Commission: 1150 East William Street, Carson City, Nevada 89701 and 9075 West Diablo Drive, Suite 250, Las Vegas, Nevada 89148.

The following information is provided pursuant to the requirements of NRS 233B.0603:

The proposed regulation is needed implement the provisions of SB 329.

The proposed regulation is expected to have no adverse or beneficial immediate or long-term economic effects on the businesses that it is to regulate.

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

The Commission used the simplified Delphi method in determining the impact on small businesses, whereby experts review the text of the proposed regulation and determine the likely impact of the proposed regulation on small businesses. These experts share their responses with each other and form a consensus view. The Commission found that the proposed regulation is not 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.

There will be minimal ongoing costs to the Commission for the enforcement of the proposed regulation.

The proposed regulation does not overlap or duplicate any state or local regulations.

The proposed regulation is not required pursuant to federal law.

The proposed regulation is not more stringent than a federal regulation that regulates the same activity.

The proposed regulation does not establish any new fee or increase an existing fee.

Persons wishing to comment upon the proposed action of the Commission may appear at the scheduled workshop and hearing or may submit their comments, data, views, or arguments in written form electronically through the Electronic Filing System on the Commission's website or at either of the Commission's offices on or before FRIDAY, JUNE 17, 2022. Written comments should include proposed revisions, if any, to the proposed regulation.

A copy of this notice and the proposed regulation to be adopted, amended, or repealed will be on file at the State Library, 100 North Stewart Street, Carson City, Nevada 89701, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulation to be adopted, amended, or repealed are on file and available for public viewing at the Commission's website at <https://puc.nv.gov> for inspection and copying by

members of the public. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations (File No. R011-22), which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at <https://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary. This does not apply to a public body subject to the Open Meeting Law.

Upon adoption of any regulation, the Commission, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption or incorporate therein its reason for overruling the consideration urged against its adoption.

Pursuant to NRS 233B.060(1), the Presiding Officer in this matter anticipates placing the proposed regulation on a Commission Agenda no earlier than Tuesday, July 12, 2022, for the Commission's consideration as to whether to adopt the regulation as permanent.

By the Commission,

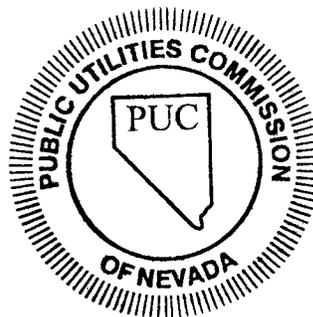


TRISHA OSBORNE,
Assistant Commission Secretary

Dated: Carson City, Nevada

5/20/22

(SEAL)



ATTACHMENT 1

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

LCB File No. R011-22

May 3, 2022

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

AUTHORITY: §§ 1-13, NRS 703.025, 704.210 and 704.7983.

A REGULATION relating to electric utilities; revising requirements for an application by an electric utility to recover its prudent and reasonable expenditures to develop and implement a natural disaster protection plan; revising requirements for the tracking and accounting of such expenditures; requiring an electric utility to submit a progress report concerning its natural disaster protection plan; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires an electric utility, on or before June 1, 2020, and on or before June 1 of every third year thereafter, to submit a natural disaster protection plan to the Public Utilities Commission of Nevada. A natural disaster protection plan is required to contain certain information, procedures and protocols relating to the efforts of the electric utility to prevent or respond to a fire or other natural disaster. (NRS 704.7983; section 7 of LCB File No. R085-19) **Section 10** of this regulation revises the information which is required to be included in a natural disaster protection plan.

Sections 2-7 of this regulation define certain terms relating to natural disaster protection plans. **Section 9** of this regulation provides for the proper placement of these definitions in the Nevada Administrative Code.

Existing law requires an electric utility to recover all prudent and reasonable expenditures to develop and implement a natural disaster protection plan as a separate monthly rate charged to customers. (NRS 704.7983) Existing regulations require the electric utility to separately track and account for those expenditures in its books and records and annually submit to the Commission a request to recover the cost of those expenditures. (Section 12 of LCB File No. R085-19) **Section 12** of this regulation requires the electric utility to designate those expenditures as direct, joint or common costs. **Section 12** also requires an electric utility, in applying to recover the cost of those expenditures, to show that those expenditures are incremental to the costs incurred in the normal course of business and are not otherwise

recovered through rates. **Section 8** of this regulation requires an electric utility to include and respond to a master document for the request of data in its application to recover the cost of its expenditures.

Existing regulations authorize an electric utility in certain years after the filing of a natural disaster protection plan to file with the Commission a progress report concerning the natural disaster protection plan. (Section 10 of LCB File No. R085-19) **Section 11** of this regulation makes the filing of this progress report mandatory.

Existing regulations authorize an electric utility to create a separate regulatory asset or liability account for a new capital project constructed or acquired by and owned by the electric utility pursuant to a natural disaster protection plan. (Section 13 of LCB File No. R085-19) **Section 13** of this regulation revises the amounts which must be calculated and recorded in such an account.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

Sec. 2. *“Common costs” means those costs incurred by an electric utility that cannot be clearly identified as being caused by an individual customer or specific class of customers.*

Sec. 3. *“Customer” means a person:*

- 1. Who receives or applies to receive electric service from an electric utility;*
- 2. In whose name such service is or is to be provided, as evidenced by a signature on the application or contract for such service; or*
- 3. In whose name such service is or is to be provided, as may be established by other demonstrable evidence that the person requested the utility to provide such service in that person’s name.*

Sec. 4. *“Direct costs” means those costs incurred by an electric utility that can be clearly identified as being caused by an individual customer or a specific class of customers.*

Sec. 5. “Joint costs” means those costs not identified as direct costs or common costs within the service territory of an electric utility that are incurred for the benefit of more than one service territory of an electric utility holding company.

Sec. 6. “Rate design” means the specification of prices for each component of a rate schedule for each class of customers, which provides for the recovery of costs incurred to develop and implement the natural disaster protection plan after the assignment of direct costs and the allocation of common costs and joint costs to each class of customers.

Sec. 7. “Service territory” means the service territory of an electric utility that is legally described in the certificate of public convenience and necessity issued by the Commission pursuant to NRS 704.330.

Sec. 8. 1. An electric utility which files an application to recover the prudent and reasonable expenditures made by the electric utility during the immediately preceding year to develop and implement the natural disaster protection plan of the electric utility pursuant to section 12 of LCB File No. R085-19 must include with the application a master document for the request of data, with answers to the questions contained in the master document.

2. The electric utility shall:

(a) Complete as many of the answers to the questions in the master document as possible given the available applicable data.

(b) Provide the electronic executable files with all links intact for any schedules submitted in the master document for the request for data to:

(1) The Commission;

(2) The Consumer’s Advocate; and

(3) The Regulatory Operations Staff of the Commission.

3. Except as otherwise provided in this subsection, the master document for the request of data must be submitted in the illustrative format required by the Commission. The illustrative format for a particular master document for the request of data may be changed if the Consumer's Advocate, the Regulatory Operations Staff of the Commission and the electric utility agree to the change. The illustrative format for the master document for the request of data may be obtained at the offices of the Commission.

4. The following entities may request that the Commission change the illustrative format for the master document for the request of data:

(a) The Consumer's Advocate;

(b) The Regulatory Operations Staff of the Commission; or

(c) The electric utility.

5. Any changes which the Commission makes to the illustrative format for the master document for the request of data do not apply to a master document for the request of data submitted by an electric utility within 90 days after the Commission approves the changes.

Sec. 9. Section 2 of LCB File No. R085-19 is hereby amended to read as follows:

Section 2. As used in sections 2 to 14, inclusive, of LCB File No. R085-19 ***and sections 2 to 8, inclusive, of this regulation***, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of LCB File No. R085-19 ***and sections 2 to 7, inclusive, of this regulation*** have the meanings ascribed to them in those sections.

Sec. 10. Section 7 of LCB File No. R085-19 is hereby amended to read as follows:

Section 7. 1. An electric utility shall, on or before March 1, 2020, and on or before March 1 of every third year thereafter, submit a natural disaster protection plan to the Commission. Two or more electric utilities that are affiliated through common ownership and that have an interconnected system for the transmission of electricity may submit a joint natural disaster protection plan. A natural disaster protection plan may be an amended version of a previous plan.

2. An electric utility shall include in its natural disaster protection plan all of the following information:

(a) A description of a risk-based approach used by the electric utility to identify areas within the service territory of the electric utility that are prone to different types of natural disasters and an identification of potential threats in the foreseeable future, including, without limitation, an identification of areas within the service territory of the electric utility that are subject to a heightened threat of a fire or other natural disaster.

(b) A description of the preventive strategies and programs, including, without limitation, operational practices, inspections and corrections, and system hardening that the electric utility will adopt to minimize the risk of its electric lines and equipment causing catastrophic wildfires. In determining which preventive strategies and programs to include in the description required by this paragraph, the electric utility shall consider dynamic climate change and other natural disaster risks.

(c) A description of the metrics that the electric utility plans to use to evaluate the performance of the natural disaster protection plan and the assumptions underlying the use of those metrics.

(d) The threshold criteria for the de-energization of portions of the distribution and transmission system of the electric utility due to a natural disaster that considers the associated impacts on public safety.

(e) The protocols that the electric utility plans to use:

(1) For disabling reclosers and de-energizing portions of the distribution and transmission system of the electric utility that considers the associated impacts on public safety; and

(2) To mitigate the public safety impacts of the protocols described in subparagraph (1), including, without limitation, impacts on critical first responders and on health and communication infrastructure.

(f) A description of the procedures the electric utility intends to use to restore its distribution and transmission systems in the event of the de-energization of those systems or a portion of those systems.

(g) A communication plan related to public safety outage management, which includes, without limitation, communication plans specific to customers, stakeholders and communication infrastructure providers. Before filing a natural disaster protection plan, each electric utility shall meet with communication infrastructure providers in an effort to develop a mutually agreeable plan for public safety outage management notification protocols and format.

(h) A description of the standard for vegetation management to be used by the electric utility and, if that standard exceeds any other standard for vegetation management required

by any applicable statute or regulation, a description of how and why the standard exceeds those requirements.

(i) A description of the standard for patrols and detailed inspections of electric utility infrastructure and, if that standard exceeds any other standard for such patrols and inspections required by any applicable statute or regulation, a description of how and why the standard exceeds those requirements.

(j) A description of the actions that the electric utility will take to ensure that its system will achieve a reasonable level of safety, reliability and resiliency and to ensure that its system is prepared for a natural disaster, including, without limitation, vegetation management, patrols, inspections, testing, and hardening and modernizing its infrastructure with improved engineering, system design, standards, equipment and facilities, such as undergrounding, insulation of distribution wires, pole replacement and other measures. An electric utility shall use prudent practices commonly used in the electric utility industry for utility design, operating practices and telecommunications to prevent its infrastructure from causing a fire and to maintain resiliency during a natural disaster.

(k) An explanation that the electric utility has an adequately sized and trained workforce to execute the natural disaster protection plan and promptly restore service after a major event, taking into account employees of other utilities available to the electric utility pursuant to mutual aid agreements and employees of entities with which the electric utility has entered into contracts.

(l) A description of how the natural disaster protection plan is consistent with the emergency response plan submitted by the electric utility pursuant to NRS 239C.270.

(m) A description of the processes and procedures that the electric utility will use to monitor and audit the implementation of the natural disaster protection plan and to take actions to correct any deficiency that is identified.

(n) A description of the participation of the electric utility, including, without limitation, any commitments made, in any community wildfire protection plans, as defined in 16 U.S.C. § 6511, established in this State.

(o) A description of the time frame in which each element described in paragraphs (a) to (n), inclusive, will become standard operating procedure for the electric utility and recovery of the corresponding costs will be shifted from the annual application filed pursuant to subsection 3 of section 12 of LCB File No. R085-19 to the periodic general rate application filed pursuant to NRS 704.110.

3. For each element that an electric utility is required by subsection 2 to include in its natural disaster protection plan, the electric utility shall include in its natural disaster protection plan:

(a) An identification of how the element is expected to reduce:

(1) Ignition events in high fire risk areas and extreme fire risk areas during critical fire weather conditions; and

(2) Equipment damage and loss of power caused by a natural disaster;

(b) A cost-benefit analysis for the element; and

(c) The input relating to the element that has been provided by:

(1) Each fire protection district in the service territory of the electric utility that is covered by the plan;

- (2) The office of emergency management for each county covered by the plan;
- (3) The Division of Forestry, Division of State Lands and Division of State Parks of the State Department of Conservation and Natural Resources; and
- (4) The Division of Emergency Management of the Office of the Military.

4. In addition to the information that an electric utility is required by subsections 2 and 3 to include in its natural disaster protection plan, the electric utility shall include in its natural disaster protection plan:

(a) A summary of the projected 3-year budget for the natural disaster protection plan, an identification of the projected cost elements of the plan and the projected cost for each element that the electric utility is required by subsection 2 to include in the plan;

(b) If two or more electric utilities submit a joint natural disaster protection plan, the proposed *allocation of joint* ~~and direct allocation of~~ costs between the service territories of the electric utilities; ~~and~~

(c) *A budget for the assignment of direct costs that are expected to be incurred in the service territory of the electric utility and a proposed allocation of common costs within the electric utility; and*

(d) Annual data tracking trends associated with:

(1) Ignition events, separated for ignition events:

(I) During critical fire weather conditions and during all other days in high and extreme risk fire areas; and

(II) The involvement of transmission or distribution infrastructure; and

(2) Equipment damage and loss of power caused by natural disasters.

Sec. 11. Section 10 of LCB File No. R085-19 is hereby amended to read as follows:

Section 10. On or before September 1 of the first and second years after an electric utility has submitted a natural disaster protection plan to the Commission pursuant to section 7 of LCB File No. R085-19, the electric utility ~~may~~ **shall** file with the Commission a progress report concerning the natural disaster protection plan that will apply to each year remaining for the period covered by the natural disaster protection plan.

Sec. 12. Section 12 of LCB File No. R085-19 is hereby amended to read as follows:

Section 12. 1. An electric utility shall separately track and account for in its books and records all prudent and reasonable expenditures made by the electric utility to develop and implement its natural disaster protection plan.

2. *An electric utility shall designate the expenditures tracked and accounted for pursuant to subsection 1 as direct costs, joint costs or common costs.*

3. On or before March 1 of each year, an electric utility shall submit to the Commission an application to recover the cost of prudent and reasonable expenditures made by the electric utility during the immediately preceding year to develop and implement the natural disaster protection plan of the electric utility pursuant to subsection 6 of NRS 704.7983. *The electric utility must demonstrate that the expenditures are incremental to the costs incurred in the normal course of business and are not otherwise recovered in rates.* The Commission will issue a final decision on the application not later than 180 days after the date on which the application was submitted.

Sec. 13. Section 13 of LCB File No. R085-19 is hereby amended to read as follows:

Section 13. 1. An electric utility may, upon placing into operation a new capital project constructed or acquired by and owned by the electric utility pursuant to a natural disaster protection plan, create a regulatory asset or liability account for the capital project.

2. Beginning 1 month after the date on which a new capital project for which a regulatory asset or liability account is created pursuant to subsection 1 is placed into plant in service, the electric utility that maintains the account shall separately calculate and record in the account:

(a) A return on investment for the capital project using the most recently authorized pretax rate of return on the net plant balance of the capital project. The net plant balance of the capital project must be calculated by subtracting from the costs of the capital project the sum of the accumulated depreciation and the accumulated deferred income tax for the capital project.

(b) Depreciation expenses related to capital projects included in the natural disaster protection plan pursuant to paragraph (c) of subsection 2 of NRS 704.7983.

(c) Actual incremental monthly operations and maintenance costs *in excess of the costs incurred in the normal course of business that are* incurred to carry out the natural disaster protection plan.

(d) Carrying charges on the costs described in paragraph (c) at the most recently authorized rate of return.

3. The amounts recorded in a regulatory asset or liability account pursuant to subsection 2 must be separately identified and excluded from a general rate case.

4. An electric utility shall annually submit to the Commission a request to clear the accumulated balance in a regulatory asset or liability account created pursuant to subsection 1 and include the account in the request. The request must include:

(a) A proposed period for recovery and amortization of the regulatory asset or liability that ensures that the utility does not recover more than the actual accumulated balance of the account;

(b) A detailed reconciliation of the amount of recovery requested to the approved budget items, showing carrying charges separately; and

(c) Proposed rate design and rates by customer class for the annual recovery requested in a separate line item on a customer's bill.