PROPOSED REGULATION OF THE
PUBLIC UTILITIES COMMISION OF NEVADA

LCB File No. R042-10

Docket No. 09-07016

March 16, 2010

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

AUTHORITY: SB 358 Section 11.3

A REGULATION relating to public utilities

Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 6 of this regulation

Section 1. NAC 704.9057 is hereby amended to read as follows:

NAC 704.9057 "Demand side plan" defined. (NRS 703.025**,** 704.210**,** 704.741**)** "Demand side plan" means the programs proposed by a utility to promote ***energy efficiency and*** conservation ~~[and demand management]~~**.**

Section 2. Chapter 704 of NAC is hereby amended by adding thereto a new section to read as follows:

NAC 704.90XX "Energy efficiency" defined (NRS 703.025, 704.210, 704.741, S.B. 358 (Section 11.3)). "Energy efficiency" means programs which modify energy use patterns resulting in greater productive use or reduction of consumption of electric power.

Section 3. NAC 704.934 is hereby amended to read as follows:

NAC 704.934 Preparation, contents and submission of demand side plan; annual filing of analyses regarding conservation and demand management programs. (NRS 703.025**,** 704.210**,** 704.741**)**

1. As part of its resource plan, a utility shall submit a demand side plan.

2. The demand side plan must include:

(a) An identification of end-uses for programs for ***energy efficiency and*** conservation ~~[and demand management]~~.

(b) An assessment of savings attributable to technically feasible programs for ***energy efficiency and*** conservation ~~[and demand management]~~, as determined by the utility. The programs must be ranked in a list according to the level of savings in energy or reduction in demand, or both.

(c) An assessment of technically feasible programs to determine which will produce benefits in peak demand or energy consumption. The utility shall estimate the cost of each such program. The methods used for the assessment must be stated in detail, specifically listing the data and assumptions considered in the assessment.

3. In creating its demand side plan, a utility shall consider the impact of applicable new technologies on current and future ***energy efficiency and conservation*** ~~[demand side]~~ options. The consideration of new technologies must include, without limitation, consideration of the potential impact of advances in digital technology and computer information systems.

4. A utility shall include in its demand side plan an energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel. The energy efficiency program must include, without limitation, the use of new solar thermal energy sources.

5. The demand side plan must provide a list of the programs for which the utility is requesting the approval of the Commission. The list must include, without limitation:

(a) An estimate of the reduction in the peak demand and energy consumption that would result from each proposed program, in kilowatt-hours and kilowatts saved. The programs must

be listed according to their expected savings and their contribution to a reduction in peak demand and energy consumption based upon realistic estimates of the penetration of the market and the average life of the programs.

(b) An assessment of the costs of each proposed program and the savings produced by the program. If the program can be relied upon to reduce peak demand on a firm basis, the assessment must include the savings in the costs of transmission and distribution.

(c) An assessment of the impact on the utility's load shapes of each proposed and existing program for conservation and demand management.

(d) If a program is an educational program, the projected expenses of the utility for the educational program.

6. For any conservation or demand management program which reduces the consumption of electricity or any fossil fuel, a utility shall include in its demand side plan a complete live-cycle analysis of the costs and benefits of the program using the Total Resource Cost Test.

7. The utility shall include with its demand side plan a report on the status of all programs for ***energy efficiency and*** conservation ~~[and demand management]~~ that have been approved by the Commission. The report must include tables for each such program showing, for each year, the planned and achieved reduction in kilowatt-hours, the reduction in kilowatts and the cost of the program.

8. On or before ~~[August 15]~~ ***July 1*** of each year following the filing of its resource plan, the utility shall file with the Commission a copy of the complete analysis the utility used in determining for the upcoming year which ***energy efficiency and*** conservation ~~[and demand management]~~ programs are to be continued and which programs are to be cancelled. ~~[The Commission will process this analysis in the same manner as an amendment filed pursuant to~~

~~NAC 704.9503~~] ***The Commission shall accept the analysis as filed, accept the analysis with modification, or reject the analysis within 180 days of filing*** .

9. As used in this section:

(a) "New solar thermal energy sources" means energy sources which are installed after the effective date of the utility's energy efficiency program and which reduce the consumption of electricity or any fossil fuel by using solar radiation to heat water or to provide space heating or cooling.

(b) "Total Resource Cost Test" means a method of determining the overall economic efficiency of a demand management program from the perspective of society by measuring the net costs of the program based on its total costs, including, without limitation, the costs to both participants and the utility.

Section 4. NAC 704.9522 is hereby amended to read as follows:

NAC 704.9522 Measurement and verification protocol for energy efficiency *and conservation* measures: Duties of utility provider. (NRS 703.025**,** 704.210**,** 704.741**)**

1. A utility provider shall propose a measurement and verification protocol for all energy efficiency ***and conservation*** measures submitted pursuant to NAC 704.9005 to 704.9525, inclusive.

2. The utility provider shall comply with, and shall ensure that all energy efficiency ***and conservation*** contracts entered into by the utility provider comply with, the most recent measurement and verification protocol approved by the Commission ~~[at the time an energy efficiency measure is implemented]~~.

Section 5. NAC 704.9523 is hereby amended to read as follows:

NAC 704.9523 Costs of implementing programs for *energy efficiency and* conservation: ~~[and demand management]~~ Accounting; recovery, *financial incentives*. (NRS 703.025**,** 704.210**,** 704.751**, *S.B. 358 (Section 11.3)*)**

1. An electric utility is authorized to recover an amount based on the measurable and verifiable effects of the implementation by the electric utility of energy efficiency and conservation programs approved by the Commission, which must include:

a) The costs reasonably incurred by the electric utility in implementing and administering the energy efficiency and conservation programs; and

b) Any financial disincentives relating to other supply alternatives caused by the reasonable implementation of the energy efficiency and conservation programs.

The Commission shall consider the effect of any recovery by the electric utility pursuant to this section on the rates of the customers of the electric utility. The Commission may, upon the request of the electric utility or an intervening party or upon its own motion, make a determination that an individual energy efficiency or conservation program may include financial incentives to support the promotion of the participation of the customers of the electric utility in the energy efficiency and conservation programs.

2 ~~[1]~~. All costs of implementing programs for *energy efficiency and* conservation ~~[and demand management]~~ must be accounted for in the books and records of a utility separately from amounts attributable to any other activity. All accounts must be maintained in a manner that will allow costs attributable to specific programs to be readily identified.

3 ~~[2]~~. ~~[Except as otherwise provided in subsection 4, a utility may, p]~~ *P*ursuant to subsection *5, and in accordance with NAC 704.9494* ~~[3]~~, *a utility may* recover all ~~[prudent and reasonable]~~ *reasonably incurred* costs ~~[incurred in]~~ *of* implementing programs for *energy efficiency and*

conservation ~~[and demand management]~~ that have been approved by the Commission as part of the action plan of the utility, including, without limitation, the costs for labor, overhead, materials, incentives paid to customers, advertising, marketing***, monitoring*** and evaluation. ~~[The utility may recover approved costs associated with monitoring and evaluating these programs through a general rate case.]~~

4 ~~[3]~~. To recover costs incurred in implementing programs for ***energy efficiency and*** conservation ~~[and demand management]~~, a utility must ~~[Calculate, on a monthly basis, the costs incurred in implementing each program since the end of the test period or period of certification in its last proceeding to change general rates.~~

~~(b) Record the cost of implementing each program, as calculated pursuant to paragraph (a), in a separate subaccount of Account 182.3 (Other Regulatory Assets) for each program and make an appropriate offset to other subaccounts.~~

~~(c) M]~~ ***establish and maintain separate*** subsidiary records of the subaccounts of Account 182.3 ***(Other Regulatory Assets)*** for each program ***described in an approved demand side plan.*** These records must clearly delineate all costs incurred by the utility in implementing each program approved by the Commission. ***This information will be maintained by program by month by rate effective period.***

~~[as a component of an application by the utility to change general rates as follows:~~

~~(1) The Commission will adjust the rate to amortize the balance over a 3 year period, unless otherwise specified by the Commission.~~

~~(2) The utility must begin amortizing costs on the date that the change in general rates becomes effective.~~

~~(3) The utility must include the balance in the subaccounts of Account 182.3 for each program, including carrying charges, in the rate base as of the date that ends the test period used in the utility's application to change general rates or as of the date that ends the period of certification, whichever is later.~~

~~(4) To calculate revenue requirements, the utility must base the rate of return to be applied to the balance in the subaccounts of Account 182.3 for each conservation and demand management program that the utility has carried out on the authorized return on equity plus 5 percent.~~

~~4. Costs incurred in implementing a dispatachable direct load control program must be recovered pursuant to subsection 3, except for costs of incentives paid to customers which are treated as fuel and purchased power expense pursuant to NAC 704.023 to 704.195, inclusive.~~

~~5. As used in this section, "dispatchable direct load control program" means a program offered by a utility pursuant to which customers may agree to allow the utility remotely to interrupt or cycle electrical equipment and appliances, including, without limitation, air conditioners, water heaters and space heaters.]~~

5. Coincident with the filing of its annual deferred energy accounting adjustment ("DEAA") application as prescribed by NRS 704.187(3), the utility will apply to establish two period-specific rates:

(a) A prospective base program cost rate ("BPCR") determined by allocating the total cost of programs for energy efficiency and conservation described in the approved demand side plan in a manner approved by the Commission in the utility's most recent

general rate case. The BPCR for each customer class shall be equal to the allocated cost divided by the class' projected kilowatt hour sales for the relevant period; and

(b) A deferred program cost rate ("DPCR") to clear the period-specific balance over twelve months determined by dividing the period-specific balance in the subaccount of FERC Account No. 182.3 for the cost of energy efficiency and conservation programs by the applicable test period kilowatt-hour sales.

6. The utility will account for period-specific costs incurred to implement programs for energy efficiency and conservation and revenues collected under the period-specific BPCR in the following manner:

(a) On a monthly basis, record the program costs incurred and BPCR revenues received for the energy efficiency and conservation programs in a subaccount of 182.3.

~~[(b) Record the program costs and the revenues attributable to the BPCR in a separate subaccount of FERC Account No. 182.3.]~~

~~[(c) Record in a separate subaccount of FERC Account No. 182.3, the amortization revenues attributable to the DPCR.]~~

(b) ~~[(d)]~~ Apply a carrying charge at the rate of 1/12 of the authorized overall rate of return ~~[adjusted by an amount calculated to achieve its authorized return on equity plus five percent]~~ to the ***unamortized*** balance in the subaccounts of Account 182.3. ~~[not included in the rate base]~~

Section 6. Chapter 704 of NAC is hereby amended by adding thereto a new section to read as follows:

NAC 704.95XX Costs of recovering the measurable and verifiable effects on revenues of the implementation by the electric utility of energy efficiency and conservation programs approved

by the Commission: Accounting; recovery. (NRS 703.025, 704.210, 704.751, S.B. (Section 11.3)).

1. In accordance with the provisions of NAC 704.9494, a utility may recover an amount based on the measurable and verifiable effects on revenues of the implementation by the utility of programs for energy efficiency and conservation that have been approved by the Commission as part of the action plan of the utility.

2. To recover the effects on revenues of utility programs for energy efficiency and conservation a utility must establish and maintain a separate subsidiary record of the subaccounts of FERC Account 182.3 (Other Regulatory Assets) for the tracking, calculation and recovery of the lost revenue associated with the programs described in an approved demand side plan. This information will be maintained by program, by month, by rate effective period.

3. Coincident with the filing of its annual DEAA application as prescribed by NRS 704.187(3), the utility will apply to establish two period-specific rates:

(a) A prospective base lost revenue rate ("BLRR") determined by allocating lost revenue to each customer class in a manner approved by the Commission in the utilitiy's most recent general rate case. The BLRR for each customer class shall be equal to the lost revenue allocated to that class divided by the class' projected kilowatt hour sales for the relevant period; and

(b) A deferred lost revenue rate ("DLRR") to clear the period-specific balance over twelve months determined by dividing the period-specific balance in the subaccount of FERC Account No. 182.3 for lost revenues associated with energy efficiency and conservation programs for each class of customers by the test period kilowatt-hour sales.

4. The utility will account for period-specific lost revenues associated with energy efficiency and conservation and revenues collected under the period-specific BLRR in the following manner:

(a) Calculate on a monthly basis the deferred lost revenue;

(b) Calculate on a monthly basis the recorded revenues attributable to the BLRR;

(c) On a monthly basis, record in the subaccount of FERC Account No. 182.3 the differential between estimated lost revenues and recorded BLRR revenues;

(d) Apply a carrying charge at the rate of 1/12 of the authorized overall rate of return to the unamortized balance in the lost revenue subaccount of Account 182.3.

5. The utility will perform the monitoring and verification of actual kWh and demand savings contemplated by NAC 704.9522 by program by month by class, submit that information for review and approval by the Commission pursuant to NAC 704.934 and make such adjustments to the balancing account for lost revenues (including carrying charges) as are necessary to reflect the result of Commission review.