

**LCB File No. R172-99**

**BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA**

In Re Investigation of issues to be )  
considered as a result of restructuring )  
of electric industry (pursuant to NRS 704.965 ) Docket No. 97-8001  
to 704.990, inclusive). )  
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**NOTICE OF HEARING FOR THE ADOPTION OF REGULATIONS**  
**OF THE PUBLIC UTILITIES COMMISSION OF NEVADA**

The Public Utilities Commission of Nevada ("Commission") will hold a public hearing **at 10:00 a.m. on Monday, November 8, 1999** at the office of the Commission, 1150 East William Street, Carson City, Nevada 89701. If necessary, this hearing will continue from day to day as necessary. At this time, the Commission has reserved November 8 and 9, 1999 for this hearing. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of a regulation that pertains to Chapter 704 of the Nevada Administrative Code ("NAC").

The following information is provided pursuant to the requirements of NRS 233B.060 and 233B.0603:

At this time, the Commission proposes to adopt a regulation which deals with recovery of past costs contemplated by NRS 704.983. The proposed regulation is available upon request from the Commission. The proposed regulation is needed in order to implement the provisions of NRS 704.965 to 704.990, inclusive, which concerns the competitive provision of electric services. The purpose of the proposed regulation is to establish the procedure by which a vertically integrated electric utility may seek recovery of stranded costs.

The provisions of the proposed regulation potentially affect all entities which offer or which will offer electric services in Nevada as well as all customers. The regulation contemplates a mechanism for cost recovery; at this time, the Commission cannot quantify any

adverse economic effects on the affected utilities, either immediate or long-term, which may result from the regulation. No adverse economic effects, either immediate or long-term, which cannot be avoided while at the same time implementing competition for electric services, are expected at this time to inure to the public. Because the regulation on past costs affords an opportunity for cost recovery, the entities affected by this regulation may experience beneficial economic effects, both immediate and long-term, which cannot be quantified at this time, as a result of the regulation as proposed. The public may experience beneficial economic effects in that they will be afforded an opportunity to be heard on the process by which recovery of stranded costs will be administered.

The Commission does not envision that the proposed regulation will result in increased costs associated with enforcement. This proposed regulation does not overlap or duplicate any regulations of other state or local governmental agencies, nor does it establish any new fees or increase any existing fees.

Persons wishing to comment upon the proposed action of the Commission may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Secretary of the Public Utilities Commission of Nevada, at 1150 East William Street, Carson City, Nevada 89701, or at the Sawyer Office Building, 555 East Washington Avenue, Suite 4500, Las Vegas, Nevada 89101. Written submissions must be received by the Commission **on or before Wednesday, November 3, 1999**. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Commission may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at the Public Utilities Commission of Nevada, 1150 East William Street, Carson City, Nevada, 89701 and the Sawyer Office Building, 555 East Washington Avenue, Suite 4500, Las Vegas, Nevada, 89101 and, in all counties in which an office of the agency is not maintained, at the

main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://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.

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, and incorporate therein its reasons for overruling the consideration urged against its adoption.

This notice has been posted at the county courthouses in Carson City, Reno, and Las Vegas.

By the Commission,

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CRYSTAL REYNOLDS, Commission Secretary

Dated: Carson City, Nevada

October 7, 1999.  
(SEAL)

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

Docket No. 97-8001 (Past Costs)  
(For Hearing November 8, 1999)  
Authority: NRS 703.025, 704.983

**Section 1.** Chapter 704 of NAC is hereby amended by adding thereto the provision set forth as Sections 2 to 6, inclusive, of this regulation.

### **Section 2.** Introduction

This regulation initiates implementation of NRS 704.983. It requires each vertically integrated electric utility to submit an application for recovery containing the information set forth in this regulation. The regulation also describes the future procedures the commission will follow in disposing of these applications.

The regulation does not commit the Commission to a particular approach on any issue for which information is required. Thus, although the regulation asks the utility to calculate market value, demonstrate its mitigation efforts, and indicate any true-up mechanism, the Commission is not determining at this time that any administrative method for determining market value (as distinct from an actual market test), will be appropriate. Nor is the Commission determining at this time that there should or should not be a true-up process. The Commission will make these judgments as part of its disposition of each utility's filing.

### **Section 3.** Procedures Anticipated by this Regulation

1. Unless otherwise determined by the Commission, not later than six weeks following the issuance by the Commission of its order relating to the compliance filing submitted by each vertically integrated electric utility pursuant to NRS 704.986, each vertically integrated electric utility shall file an application containing the information set forth in this regulation for recoverable costs associated with generation, aggregation, billing, metering and customer service.

2. If additional services are determined to be potentially competitive by the Commission, the Commission's order making such determination shall outline the schedule for filing an application containing the information set forth in this regulation for recoverable costs associated with those services.

3. Within three months from the date upon which alternative sellers begin to provide potentially competitive services to customers, each distribution utility shall make a filing that updates the recoverable costs associated with assets and obligations consistent with the Commission's recoverable cost order. Such filing shall only update the recoverable cost projections accepted by the Commission.

4. Within three weeks after the final sales agreement has been executed for an asset or obligation used to provide a potentially competitive service, the distribution company shall make a filing that updates the recoverable costs associated with the asset or obligation.

#### **Section 4. Recoverable Costs**

The application shall indicate the (1) unrecoverable book cost portion of the recoverable costs attributable to each potentially competitive service updated with the most recent data available and (2) an estimate of the unrecovered book cost of costs attributable to each potentially competitive service as of the date upon which alternative sellers may provide potentially competitive services to customers. The application should indicate, where applicable, the unrecovered book cost level for each year until such cost level equals zero. For any additions of assets or obligations expected to be added between the date of the filing and the date upon which alternative sellers may provide potentially competitive services to customers, a full explanation of the additions shall be provided. Recoverable costs shall be based upon the appropriate statements and schedules (per NAC 703.2271 – NAC 703.2481) included in the compliance filing submitted by each vertically integrated electric utility pursuant to NRS 704.986 or the appropriate statements and schedules required by a Commission order deeming a service potentially competitive. Such statements and schedules shall be updated to reflect the changes, if any, made by the Commission to the book costs originally proposed in the compliance filing in the order it issues on the compliance filing. The information included in the application shall include, at a minimum, the following information:

1. An itemized list of all assets and contractual obligations used in the provision of each potentially competitive service, including a listing of the individual account numbers with subaccounts as necessary, attributable to each asset or obligation with separate columns provided for all recorded amounts, adjustments and allocations:

A. For each asset, the following information shall be provided:

- (1) The date the asset was initially acquired;
- (2) A statement of the original and continuing need for the acquisition of the asset;
- (3) The original cost of the asset;
- (4) The accumulated depreciation and associated depreciation rate on the asset;
- (5) The net book value of the asset;
- (6) The associated accumulated deferred taxes by account by vintage year;
- (7) The current market value of the asset, unless the market value of the asset is to be determined by sale in the open market;
- (8) All costs that are properly associated with and allocable to the asset that are not

included elsewhere; and

(9) The tax base of an asset for calculating capital gains or losses for purposes of federal taxes.

Information for each generating asset must be supplied by individual unit at each generating facility. In the case of other assets used in the provision of potentially competitive services, information shall be reported separately for each potentially competitive service, where such separation is possible.

B. For each contract or other obligation, the following information shall be provided:

(1) A copy of the contract or a description of the obligation;

(2) A statement of the original and continuing need for the contract or of the obligation;

(3) The remaining life of the obligation and a projection of the amount of the obligation on an annual basis over the remaining life of the obligation and brought to present value, including a description of all assumptions used;

(4) Unless the market value of the contract has been determined by sale in the open market, the current market value of the services or products to be provided under contract projected on an annual basis over the remaining life of the obligation and brought to present value, including a description of all assumptions used. The estimate of current market value should ensure that the comparison contract provides similar terms and conditions; and

(5) Accumulated deferred taxes by account by vintage year, as applicable.

C. A listing of embedded debt and preferred stock issues, including the initial principle balance, the current principle balance, the interest rate, the unamortized gain or loss on reacquisition, the timing and prices under which each issue may be called before maturity, if applicable, and for debt issues whether the issue is a mortgage bond or a debenture issue, and if a mortgage bond, what assets are encumbered.

D. For each asset, contract or obligation which has been sold, provide a description of the method by which it was disposed of, the price or other consideration given and received, and the names of the purchasers. Also provide a copy of the information packet sent to potential bidders, copies of all responses and letters of interest, and copies of sales contracts, including all terms and conditions (e.g., put or call options upon the generation or purchased power).

E. For employee-related expenses incurred by the applicant associated with minimizing layoffs and other adverse effects resulting from the transition to a competitive market, the following information must be provided:

(1) the number of affected employees;

(2) a copy of the plans and programs for severance, retraining, job placement, early retirement, and any other plan or program undertaken by the utility to minimize adverse effects to employees; and

(3) the total cost to implement and administer the plan(s) and program(s).

2. Unless the market value has been determined by the sale of an asset or obligation on the open market, in determining market values for the preceding subsection, the applicant shall include at least three estimates using multiple valuation techniques which consider:

A. The market power derived from the load pocket nature of the integrated utility's system;

B. The market power derived from the site location of the asset, such as fuel supply contracts, proximity to gas pipelines, proximity to a water source, and the proximity to transmission lines;

C. Any mitigation of market power by action of the Commission or the Federal Energy Regulatory Commission;

D. In the case of generating facilities, the state of maintenance of the generation facility;

E. Projected revenue streams;

F. All ongoing operations and maintenance expenses;

G. Possible debt responsibility to accompany specific assets;

H. Possible additional investments to increase market value; and

I. Other possible relevant factors.

3. No requests for recovery of costs incurred as a result of implementing competition should be included in the application for recoverable costs. The opportunity for requesting recovery of those costs, where legitimate, will be provided through future rate case applications associated with the provision of noncompetitive services in compliance with statute and regulation.

4. Efforts by the utility to minimize federal taxes resulting from offsetting gains and losses of the assets and obligations properly allocable to a potentially competitive service shall be considered by the Commission in determining recoverable costs.

## **Section 5. Commission Considerations**

1. For elements of cost identified in response to Section 4 above, an applicant must describe all significant efforts taken to reduce the cost or increase and realize the increased value of the

asset or obligation, and all information indicating how the mitigation efforts actually reduced the recoverable costs of the utility. Such mitigation shall be included in the calculation of recoverable costs as illustrated in subsection 7 below. Such efforts might include, without limitation:

A. refinancing efforts which reduce capital costs or facilitate disposition of the associated assets, or both;

B. efforts to identify entities willing to pay amounts exceeding book costs for the rights and obligation associated with the costs;

C. efforts to increase operating efficiency;

D. efforts to reduce input costs;

E. efforts to find other more economical uses for the asset;

F. efforts to find new markets for the asset's output;

G. efforts to extend the economic life of the assets;

H. the extent to which the utility may be able to fulfill its obligations with no further cash outlays;

I. curtailment of pension or benefit plans arising from generation divestiture or other employee-related changes;

J. the costs and benefits of renegotiation options;

K. all overtures concerning renegotiation options, including

(1) overtures made by the utility to the seller, and

(2) overtures made by the seller to the utility; and

L. possible exercise of any applicable contract clauses to mitigate the cost of the contract.

2. For all other costs, expenses and revenues included in Section 4 above, describe the utility's efforts to mitigate recoverable costs or maximize and realize the value of the assets through such things as:

A. maximization of tax deductions which result in the least costs to ratepayers;

B. renegotiation of fuel or fuel transportation contracts; and

C. exercise of cancellation or termination clauses in uneconomic fuel contracts to avoid



incurring uneconomic costs.

3. For each element of cost requested for recovery, identify all information, including Commission actions or statements if any, indicating that the utility was legally required to incur the cost. It is not sufficient to state that a particular cost was incurred due to the utility's general legal obligation to serve its customers. The utility also must identify information indicating whether state or federal law required the utility to incur that particular cost.

4. For each element of cost requested for recovery for which the utility had the discretion to incur or mitigate the cost, identify all information which indicates that the conduct of the utility with respect to the costs was similar to conduct of other similarly-situated utilities.

5. For elements of cost requested for recovery, identify how the rates previously established by the Commission did or did not compensate shareholders for the risk of not recovering the costs of the assets or obligations.

6. Based on the answers to each of the foregoing questions, calculate the total amount of recoverable costs proposed, according to the following formula:

$$\text{recoverable costs} = (\text{cost}) \text{ less } (\text{mitigatable amount}) \text{ less } (\text{market value})$$

This formula is not necessarily the one which the Commission will apply. For example, the Commission has discretion to reduce the recoverable amount to reflect (a) any excess of book costs over the level which was incurred by similarly situated utilities if the utility had the discretion to incur the cost, and (b) the extent, if any, to which the utility previously was compensated for the risk of less than full cost recovery.

## **Section 6. Recovery Procedure**

An applicant shall:

1. Propose and support a recovery mechanism and recovery period for the recoverable costs identified under Section 4 above. The recovery period and mechanism need not be the same for each cost category.

2. Identify all tax consequences associated with the recovery.

3. Propose and support a return on the unrecovered portion of the portion of the recoverable amount that receives a return under current ratemaking practices, taking into account the security of recovery assumed in the other elements of the proposal.

4. Taking into account the various recovery periods and any tax consequences, calculate the projected annual total cost to ratepayers for the period of time until all costs have been reduced to zero.

5. Propose tariffs for a preferred recovery device and identify and support:

A. the source of payment (i.e., recovery directly from ultimate consumers, recovery from alternative sellers)

B. the method and design of the charge (e.g., based on future kilowatt-hour consumption, past kilowatt-hour consumption, future kilowatt demand, past kilowatt demand).

C. any true-up mechanism (not required)

D. an annual projection of the charges for a typical residential consumer

E. the treatment of customers who:

(1) take service at transmission voltage rather than distribution voltage;

(2) self-generate; or

(3) were not customers of the utility before initiation of the recovery device but who moved into the utility's service territory after initiation of the recovery device

F. the treatment of customers, if any, who wish to pay for their past cost obligation up-front ("up-front payers"), including who bears the risk (as between the utility and its other customers) that the amount paid by up-front payers turns out to be insufficient to cover the utility's costs.

G. all reasons why the proposed device is consistent with NRS 704.983 (including the requirement in NRS 704.983(2) that the recovery be "direct and unavoidable"), and achieves the goals of economic efficiency, competitive neutrality, administrative feasibility and the orderly implementation of effective competition.