

LCB File No. R124-01

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

**PROVIDERS OF NEW ELECTRIC RESOURCES**

Docket #01-6003

September 21, 2001

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

AUTHORITY: Section 26.75 of Assembly Bill No. 661 of the 71<sup>st</sup> session of the Nevada Legislature.

**Section 1.** Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 44, inclusive, of this regulation.

**Sec. 2.** *As used in sections 3 to 44, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in section 3 thru 15, inclusive, of this regulation, have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Calendar quarter” defined. “Calendar Quarter” has the meaning ascribed to it in section 26.15 of Assembly Bill No. 661 of the 71st session.*

**Sec. 4.** *“Company use” defined. “Company Use” means kilowatt-hours of electricity consumed by a public or municipal utility in conducting its utility business, or, natural gas consumed by a public or municipal utility in conducting its utility business. “Company Use” does not include station use.*

**Sec. 5.** *“Commission” defined. “Commission” has the meaning ascribed to it in section 26.2 of Assembly Bill No. 661 of the 71st session.*

**Sec. 6.** *“Control” means the possession, direct or indirect, of the power and authority to direct or cause the direction of the management and major policies of a customer, whether through ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the customer.*

**Sec. 7.** *“Fund” defined. “Fund” has the meaning ascribed to it in section 26.25 of Assembly Bill No. 661 of the 71st session.*

**Sec. 8.** *“Municipal utility” defined. “Municipal Utility” has the meaning ascribed to it in section 26.35 of Assembly Bill No. 661 of the 71st session.*

**Sec. 9.** *“Public utility” defined. “Public Utility” has, for purposes of this chapter, the meaning ascribed to it in NRS 704.020 and 704.030, and which sells electricity or natural gas to retail customers.*

**Sec. 10.** *“Qualified Facility” defined. “Qualified Facility” has the meaning ascribed to it under federal law, as incorporated by reference at NAC 704.700 (1).*

**Sec. 11.** *“Retail customer” defined. “Retail Customer” has the meaning ascribed to it in section 26.5 of Assembly Bill No. 661 of the 71st session.*

**Sec. 12.** *“Retail Customer” does not include the federal government, or an agency or an instrumentality of the federal government, and does not include any Indian tribe, Indian band or group of Indians recognized by the Federal Government as possessing a government-to-government relationship with the United States.*

**Sec. 13.** *“Station use” defined. “Station use” means kilowatt-hours of electricity or therms of natural gas consumed at an electric generation facility, or, natural gas consumed by a public utility to directly support the delivery of natural gas to retail customers, for example, natural gas consumed for pressure regulation.*

**Sec. 14.** *“Universal energy charge” defined. “Universal energy charge” has the meaning ascribed to it in section 26.55 of Assembly Bill No. 661 of the 71st session.*

**Sec. 15.** *“Welfare division” defined. “Welfare division” has the meaning ascribed to it in section 26.2 of Assembly Bill No. 661 of the 71st session.*

**Sec. 16.** *For purposes of applying section 26.7 (1) of Assembly Bill No. 661 of the 71st session, “3.30 mills” means \$0.00330, and “0.39 mills” means \$0.00039.*

**Sec. 17.** *1. Calculation of universal energy charge. The amount of universal energy charge due from any retail customer shall be based upon the quantities of natural gas or electricity as measured by a meter read on a date within the calendar quarter. The primary evidence of the metered quantity and read date is the billing from a public utility, a municipal utility or other provider.*

2. *A Qualified Facility may propose a methodology to allocate natural gas consumed between that used as the energy source for electric generation and that used for other operating purposes.*

**Sec. 18.** *The “separate item or entry on the bill” described in section 26.7 (3) of Assembly Bill No. 661 of the 71st session, must read “Universal Energy Charge”. If it is not reasonably possible for a public utility or municipal utility to include the phrase “Universal Energy Charge” as a separate item or entry on its customer bills, an alternative phrase may be used with the prior approval of the commission.*

**Sec. 19.** *Form of remittances. Any remittance to the commission must be by money order, bank draft or check payable to the commission.*

**Sec. 20.** *Utility Collection Report. Each public and municipal utility must, not later than thirty (30) days after the end of the calendar quarter, complete and send the Utility Collection Report form together with a remittance of the amount due to the commission at the address printed on the form.*

**Sec. 21.** *Remittance of universal energy charge by public utilities. Public utilities must calculate, report and remit universal energy charges on all company use energy, unless such use is specifically exempted in this chapter or chapter 702 of NRS. The report must be on the Retail Customer Report form.*

**Sec. 22.** *Retail Customer Report. Each non-exempt retail customer not using the distribution services of a public or municipal utility to receive its natural gas or electric utility services must, not later than thirty (30) days after the end of the calendar quarter, complete and send the Retail Customer Report form together with a remittance of the amount due to the commission at the address printed on the form.*

**Sec. 23.** *Prepayment of universal energy charge. Any retail customer may prepay the universal energy charge in the amount of \$25,000 for any calendar quarter by submitting the remittance together with the universal energy charge Prepayment Report form.*

**Sec. 24.** *1. Not later than 30 days before the first day of any calendar quarter, a retail customer or multiple retail customers under common ownership and control may notify, in writing, the commission and any public or municipal utilities from which the customer or customers purchase natural gas or electricity that the customer or customers elect to pay in full the \$25,000 maximum universal energy charge for such calendar quarter as established*

*by section 26.75 of Assembly Bill No. 661 of the 71st session. Upon payment of such amount to the commission not later than 5 business days after the first day of the applicable calendar quarter, the customer or customers shall be excused from any further liability for the universal energy charge.*

*2. In no event shall a customer or customers making payment in full for a calendar quarter pursuant to subsection 1 be eligible for a refund of any portion of such amount on the basis that the customer's or customers' actual usage of electricity and natural gas for the calendar quarter did not result in liability for the maximum universal energy charge for that calendar quarter.*

**Sec. 25.** *Upon receipt of a prepayment, the commission shall notify the affected public or municipal utility and direct that no universal energy charge shall be collected from the retail customer for that calendar quarter.*

**Sec. 26.** *Incomplete, erroneous or inadequate reports, remittances or requests for refund.*

*1. Any report, remittance or request for refund received by the commission which is materially incomplete, erroneous, internally inconsistent or otherwise inadequate shall be held without processing.*

*2. The person submitting the report, remittance or request for refund shall be promptly notified of the deficiency and requested to cure the deficiency within 10 business days after the date of the notification of deficiency.*

*3. If the deficiency is cured within the 10 business day period, the complete report, remittance or refund request must be processed as though complete on the original date of submittal.*

*4. If the deficiency is not cured within the 10 business day period, or before the due date for the document, whichever occurs later, the complete report, remittance or refund request must not be processed and shall be deemed late filed and, if appropriate, returned to the sender.*

**Sec. 27.** *For purposes of applying section 26.7 (2)(a) of Assembly Bill No. 661 of the 71st session, the following phrases have the following meanings:*

*1. "Therm of natural gas used as a source of energy to generate electricity" means any therm of natural gas delivered to an electric generating plant or unit which is actually consumed solely to support the generation activity occurring at that plant or unit; and*

2. *“Therm of natural gas used as a source of energy to generate electricity” does not mean any therm of natural gas delivered to an electric generating plant or unit, or elsewhere, which is not actually consumed solely to support the generation activity occurring at that plant or unit, for example, any natural gas delivered to an electric generating plant or unit which is consumed primarily to support a non-electric generation activity, such as a steam or heat host at a Qualified Facility.*

**Sec. 28.** *As used in section 32, of this regulation, the words and terms defined in section 29 through 31, inclusive, of this regulation, have the meanings ascribed to them in those sections.*

**Sec. 29.** *“Manufacturing facility” means a factory or other physical location in which tangible personal property is created, produced or processed for the purpose of physically incorporating it into a product to be sold, including, any operation which results in the creation or production of tangible personal property or which is a step in a process or series of operations resulting in the creation or production of tangible personal property.*

**Sec. 30.** *“Manufacturing facility” does not include any factory or other physical location in which the activities constitute merely the repair or reconditioning of tangible personal property to refit it for the use for which it was originally produced.*

**Sec. 31.** *“Electrolytic” means a process in which electricity is passed through an ionized solution or molten metallic salt to complete an electric circuit between two electrodes.*

**Sec. 32.** *For purposes of applying section 26.7 (2)(b) of Assembly Bill No. 661 of the 71st session, “kilowatt-hour of electricity used in industries utilizing electrolytic-manufacturing processes” means:*

*(a) Any kilowatt-hour of electricity actually delivered to and consumed within a manufacturing facility in which one or more electrolytic processes are used; and*

*(b) Which electricity is actually used or consumed directly in the operation of the electrolytic processes.*

**Sec. 33.** *For purposes of applying section 26.7 (5) of Assembly Bill No. 661 of the 71st session, “Multiple retail customers under common ownership and control” means a single retail customer and one or more other retail customers in which the first retail customer possesses a legal ownership equity interest of at least 5 percent, and, over which the first customer possesses the power and authority to exercise control.*

**Sec. 34.** *A retail customer may file a request for refund:*

- 1. To seek a refund of universal energy charge amounts paid in excess of \$25,000 for a calendar quarter,*
- 2. To seek a refund of universal energy charge amounts paid which are associated with consumption of electricity for an electrolytic manufacturing process or natural gas to generate electricity that is exempt under section 26.7 (2)(a) or (2)(b) of Assembly Bill No. 661 of the 71st session; or*
- 3. To seek a refund of universal energy charge amounts for any other lawful reason.*

**Sec. 35.** *Requests for Refund - general.*

- 1. Any request for refund of universal energy charge previously paid must be made on the commission's Request for Refund form accompanied by:*
  - (a) A statement setting forth the amount of the requested refund based upon quantities of natural gas or electricity billed during a calendar quarter.*
  - (b) A statement setting forth all grounds upon which the request for refund is based.*
  - (c) Evidence the claimant relies upon in determining the claim, including copies of bills, documents and affidavits, evidence of full payment of bills and any other information or documentation requested by the commission.*
  - (d) A signed release authorizing the commission or its regulatory operations' staff to request and receive a payment history for the affected accounts from any public utility, municipal utility, other provider or transporter of natural gas or electricity.*
  - (e) A signed statement, under penalty of perjury, that the request for refund is made in good faith, that no other request for refund has been filed which addresses the same universal energy charge amounts or period of payment, and that the person submitting the request is authorized to make such a request on behalf of the customer.*

*2. The request for refund must be filed with the commission no later than ninety (90) calendar days after the end of the calendar quarter for which the refund is requested.*

*3. All correspondence from the retail customer regarding the refund shall be with the commission staff.*

**Sec. 36.** *Determination and Certification of Refund. Upon receipt of a request for refund, the commission shall:*

- 1. Determine and certify the amount of the refund; and*

2. *Deliver a written copy of its determination and certification to the party requesting the refund, and, to the welfare division for processing of the payment of the refund.*

3. *All refunds authorized by the commission must be paid from fund, without interest.*

**Sec. 37.** *Request for Exemption. Any retail customer, who asserts that it qualifies for statutory exemption from paying the Universal Energy Charge, may complete and send to the commission, at any time, a completed copy of the Request for Exemption form. The retail customer has the burden of proving that the retail customer is qualified for the exemption under Nevada law and must submit, with the Request for Exemption form, sufficient evidence, legal support and information to support its request for exemption.*

**Sec. 38.** 1. *The commission shall review, determine and certify the request for exemption and provide a copy of its determination and certification to the affected retail customer and affected public utility or municipal utility at least one week prior to the beginning of the next calendar quarter.*

2. *If the request for exemption is granted, it will become effective for billings issued during the next subsequent calendar quarter.*

3. *The retail customer may request a refund for any amounts billed during the calendar quarter in which the request for exemption was granted.*

**Sec. 39.** *Receipt by commission of reports, requests for refunds and remittances.*

1. *Any report, request for refund, or remittance may be delivered to the reception desk at a commission office and stamped with the date and time of receipt.*

2. *Any report, request for refund, or remittance which is transmitted through the United States mail shall be deemed to have been received on the date shown by the post office cancellation mark stamped upon the envelope containing it, or on the date it was mailed, if proof satisfactory to the commission establishes that the document or remittance was timely deposited in the United States mail, postage prepaid, and properly addressed to the commission.*

(a) *A receipt for material sent by certified or registered mail, if different than the post office cancellation mark, will prevail if the date on the receipt is earlier than the cancellation date.*

(b) *Under no circumstances will:*

*(1) The cancellation date affixed by a postage meter in the possession of the sender or other person; or*

*(2) Statements by the sender or his employees, be considered sufficient to refute the post office cancellation date as the date of mailing.*

*1. Any report, request for refund, or remittance which is transmitted through a messenger or delivery service shall be deemed to have been received on the date the document was tendered to the messenger or delivery service.*

*2. No report, request for refund or remittance may be delivered to the commission by electronic transfer or other electronic means unless approved, in advance, by the commission.*

**Sec. 40.** *If any remittance from a public utility, municipal utility or retail customer is not received on or before its due date, the commission shall be notified by the regulatory operations staff and provided with a recommended enforcement or collection action.*

**Sec. 41.** *The responsibility for the administration of the Universal Energy Charge pursuant to law and these regulations is delegated, in the first instance, to the regulatory operations staff of the commission, to do all things necessary and proper, including to receive, accept and process reports and remittances, to investigate, determine and certify, as appropriate, any request for refund or exemption, and to otherwise administer this chapter.*

**Sec. 42.** *Nothing in this chapter shall be interpreted to prevent any public utility, municipal utility or affected retail customer from seeking review or reconsideration of any decision, action or inaction of the regulatory operations staff through filing of a petition with the commission.*

**Sec. 43.** *Audits, Investigations and Enforcement. The regulatory operations' staff may conduct an audit or investigation of a public utility, municipal utility or retail customer that is required to collect or remit money for the universal energy charge, on its own initiative or at the direction of the commission. Upon completion of the audit or investigation, the regulatory operations' staff shall report its findings to the commission and recommend any enforcement action.*

**Sec. 44.** *A copy of any form described in this chapter may be obtained from the commission's internet website ([www.puc.state.nv.us](http://www.puc.state.nv.us)), requested by U.S. Mail or picked up at a commission office. The available forms include:*

*1. Utility Collection Report;*



2. *Retail Customer Report;*
3. *Prepayment Report;*
4. *Request for Refund; and*
5. *Request for Exemption.*