

Chapter 704 of NAC

LCB File No. T021-04

ADOPTED TEMPORARY REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA

Filed with the Secretary of State on March 22, 2005

PUCN DOCKET NO. 04-6022
(PHASE I – ELECTRIC UTILITIES)

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

AUTHORITY: §§1-7, NRS 703.025, 704.210 and 704.187.

A REGULATION relating to utilities; revising deferred accounting regulations for certain electric utilities; revising the calculation of the base tariff energy rate; revising the procedures for filing base tariff energy rate changes; making technical changes; and providing other matters properly relating thereto.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as Sections 2 and 3 of this regulation.

Sec. 2. *“Base tariff energy rate application” means an application to revise the base tariff energy rate filed pursuant to subsection 2 of Section 3.*

Sec. 3. *Base tariff energy rate change and effective period.*

1. Each electric utility and gas utility shall file with its deferred energy application the base tariff energy rate calculated pursuant to Section 7 or NAC 704.135. Upon providing notice in its deferred energy application, an electric utility may update the base tariff energy rate calculation 60 days after the filing of the deferred energy application.

2. An electric utility may file a base tariff energy rate application if it does not have a deferred energy application pursuant to subsection 2 of Section 5 pending. An electric utility that files a base tariff energy rate application shall:

(a) Submit its base tariff energy rate application 120 days prior to the adjustment date for the deferred energy application filed pursuant to subsection 1 of Section 5 and

(b) Calculate the base tariff energy rate pursuant to Section 7.

3. The base tariff energy rate of an electric utility or gas utility remains in effect until an amended rate is authorized by the Commission. If the electric utility files to revise the base tariff energy rate pursuant to subsection 2 of Section 3, the Commission will authorize any amended rate from that proceeding to become effective on the day following the adjustment date for the deferred energy application filed pursuant to subsection 1 of Section 5.

Sec. 4. NAC 704.032 is hereby amended to read as follows:

704.032 “Base tariff energy rate” means:

1. For an electric utility, the rate determined by dividing the ~~annualized~~ cost of fuel for generation and purchased power by applicable sales as described in NAC 704.130; or

2. For a gas utility, the rate determined by dividing the annualized cost of purchased gas by applicable sales as described in NAC 704.135.

Sec. 5. NAC 704.116 is hereby amended to read as follows:

704.116 1. Except as otherwise provided in subsection 2, each electric utility and gas utility shall file annually with the Commission a deferred energy application for each of its jurisdictional operating departments in this State setting forth its calculations of the deferred energy accounting adjustment and the base tariff energy rate.

2. An electric utility or gas utility may file with the Commission a semiannual deferred energy application if the net change in revenue necessary to clear the change in the deferred energy account balance at the end of the 6-month period exceeds plus or minus 5 percent of the total revenue at the last authorized rates for fuel for electric generation and purchased power or purchased gas.

3. Each electric utility and gas utility shall file its deferred energy application not later than 45 days after the adjustment date.

4. If an electric utility files a deferred energy application while a general rate application is pending before the Commission, the electric utility shall:

(a) Submit with its deferred energy 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.

5. The deferred energy accounting adjustment of an electric utility or gas utility must be calculated pursuant to NAC 704.101 and 704.111.

6. ~~[An increased or decreased base tariff energy rate must be based on the volumes as described in NAC 704.130, for electric operations, and NAC 704.135, for gas operations, for the test period at the latest experienced unit costs].~~

~~[7. The base tariff energy rate of an electric utility or gas utility remains in effect until an amended rate is authorized by the Commission.]~~

~~[8.]~~ The deferred energy accounting adjustment of an electric utility or gas utility remains in effect until the end of the designated amortization period or until an amended rate is authorized by the Commission, whichever occurs first.

Sec. 6. NAC 704.118 is hereby amended to read as follows:

704.118 1. ~~[If an]~~ *An* electric or gas utility *that* files ~~[an application for]~~ a deferred energy application pursuant to NAC 704.116, *or an electric utility that files a base tariff energy rate application pursuant to subsection 2 of Section 3,* ~~[the utility]~~ shall:

(a) Within 10 days after filing the application, make available at each of its business offices a complete copy of the application in such form and place as to be readily accessible to and conveniently inspected by the public;

(b) Within 10 days after filing the application, print in plain type and post at each of its business offices, in such form and place as to be readily accessible to and conveniently inspected by the public, a notice stating that the application has been filed with the Commission, describing briefly the purpose of the application, indicating that the complete application is available for public inspection on the premises and setting forth the locations where additional information may be obtained; and

(c) Within 20 days after filing the application, submit to the Commission affidavits that indicate that the application has been filed and that the utility has complied with the provisions of paragraphs (a) and (b) of this subsection.

2. After the Commission has scheduled a date for a hearing on the application, the applicant shall, at least 10 days before the scheduled date of the hearing, give notice to its customers who are affected by the proposed increase. The first paragraph of the notice must state the date, time and place of the hearing, the total amount of the proposed increase in dollars, the estimated proposed monthly increase in dollars and the proposed percentage of increase for each class of customer or class of service. The notice must also state that the Commission may set rates which may be higher or lower than the rates proposed in the application and that additional information

may be obtained from the Commission or at the offices of the electric or gas utility filing the application. The notice must be given by at least two of the following methods:

- (a) Inclusion in the regular bill of charges transmitted to the applicant's customers.
- (b) Separate mailing to each of the applicant's customers.
- (c) Prominent presentation in one or more forms of the media, including newspapers, television and radio, so that the notice will likely reach the applicant's customers.

3. At or before the hearing, the applicant must submit a verified statement to the Commission that the notice required in subsection 2 has been given. The statement must:

- (a) Set forth the means by which, and the dates and times when, the notice was mailed, published or broadcast; and
- (b) Include, as an attachment, a copy of the notice as mailed, published or transcribed.

Sec. 7. NAC 704.130 is hereby amended to read as follows:

704.130 The base tariff energy rate (BTER) for fuel for electric generation and for purchased power ~~must be established in the deferred energy application of an electric utility and must be based on the following formula~~ *shall be calculated by the utility using each of the following methodologies. The electric utility shall provide both calculations and recommend its preferred BTER.*

1. A forecasted BTER for the period the BTER is anticipated to be in effect, using an appropriate production cost model, sales forecast, and fuel and purchase power cost forecast.

2. A historic BTER using the following formula:

~~Let~~ *Where:*

MG = Units of fuel used for the test period by each generating station for each type of fuel used.

UG = The latest experienced unit cost, for a reasonably significant volume purchased, for each type of fuel used in each generating station.

FG = Other latest known costs associated with fuel used in electric generation as enumerated in the accounts specified in paragraph (a) of subsection 2 of NAC 704.120.

PPF = Total megawatt-hours purchased under firm obligation and net associated interchanged power for the test period.

UPF = The latest experienced unit energy costs for firm power and associated net interchanged power from each supplier.

PPN = Total megawatt-hours purchased under nonfirm sales and associated net interchange power for the test period.

UPN = The average weighted cost for nonfirm power and associated net interchange power purchased during the test period (recorded cost).

FP = Fixed costs associated with the purchase and net interchange of power as may be enumerated in the account specified in paragraph (b) of subsection 2 of NAC 704.120.

T = Total sales of megawatt-hours which have been sold, exclusive of nonfirm sales, for the test period.

Then:

$$((MG \times UG) + FG) + ((PPF \times UPF) + (PPN \times UPN) + FP)$$

$$BTER = \frac{\text{-----}}{T}$$

**NOTICE OF ADOPTION OF TEMPORARY REGULATION
LCB File No. R021-04**

The Public Utilities Commission of Nevada adopted regulations assigned LCB File No. R021-04 which pertain to chapter 704 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

The temporary regulation concerning revisions to the regulation concerning the Base Tariff Energy Rate (“BTER”) component of deferred energy filings in the Public Utilities Commission of Nevada (“Commission”) Docket No. 04-6022 was noticed twice: an original Notice of Investigation and Rulemaking to Revise the Regulation Concerning the Base Tariff Energy Rate Component of Deferred Energy Filings and Notice of Workshop was issued on July 19, 2004; and a combined Notice of Intent to Amend/Adopt/Repeal Regulation, Notice of Workshop and Notice of Hearing was issued on November 18, 2004. Both notices were published in the Elko Daily Free Press, Las Vegas Review Journal, Nevada Appeal, Reno Gazette Journal, and Tonopah Times-Bonanza. Additionally, the notices were mailed to county clerks, county libraries, and all persons who requested inclusion on the Commission’s service list.

In addition to the public response from affected businesses discussed in #3 below, the following summary represents public responses that were made to the Commission at the duly-noticed Workshop held on January 5, 2005: Ernest Figueroa, Deputy Attorney General with the Attorney General’s Bureau of Consumer Protection (“BCP”), stated that the BCP was in substantial agreement with the proposed temporary regulation, but discussed additional clarifications for the proposed temporary regulation; Elizabeth Elliot, Associate General Counsel for Sierra Pacific Power Company and Nevada Power Company, responded to the comments filed by the BCP before the Workshop, specifically addressing the issue of a revenue threshold requirement for filing a separate BTER application; William Stanley, Assistant Counsel for the Commission’s Regulatory Operations Staff (“Staff”), indicated that the goal of the proceeding was to develop regulation to calculate an accurate BTER, but that cannot be done with 100% certainty so the Commission should avoid large carrying charges in the Deferred Energy Accounting Adjustment.

A copy of the summary may be obtained by calling the Commission at (775) 687-6001 or (702) 486-2600 or by writing to the Commission at 1150 East William Street, Carson City, Nevada 89701 or 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

- 2. The number of persons who:**
(a) Attended the workshop:
January 5, 2005: 9

- (b) **Testified at the workshop:**
March 19, 2004: 4
- (c) **Attended the hearing:**
March 19, 2004: 9
- (d) **Submitted to the agency written comments:**

Written Comments were submitted by Staff, BCP, Southwest Gas Corporation, and jointly by Sierra Pacific Power Company and Nevada Power Company.

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by notices placed in the newspapers mentioned in the response to question #1 above, by direct mailings to interested persons on the Commission's mailing list and by posting of notices at county libraries, courthouses, and the Commission's website.

Appearances were made at the foregoing workshops and hearings by interested persons, including: Staff; BCP; Southwest Gas Corporation; and Sierra Pacific Power Company and Nevada Power Company.

Written responses were received, as set forth in the response to question 2(d).

Transcripts of the workshops and hearings, copies of the comments and this summary are on file and available for public viewing at the offices of the Commission. Copies of the transcripts may be obtained by calling the Commission at (775) 687-6001 or (702) 486-2600, or by writing to the Commission at: 1150 East William Street, Carson City, Nevada 89701 and 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

Changes were made to the proposed temporary regulation before it was adopted by the Commission. The Commission drafted the proposed temporary regulation after receiving written comments and revised the proposed temporary regulation after receiving additional written comments. The Commission adopted the temporary regulation on January 27, 2005, at a duly-noticed general session.

5. The estimated economic effect of the adopted regulation on the businesses that it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) **Both adverse and beneficial effects; and**
- (b) **Both intermediate and long-term effects.**

The Commission completed a small business impact statement pursuant to Nevada Revised Statute ("NRS") 233B.0608. On November 30, 2004, the Presiding Officer issued a

Procedural Order instructing Staff to conduct an investigation into whether the proposed temporary regulation was likely to: (i) impose a direct and significant economic burden upon a small business; or (ii) directly restrict the formation, operation, or expansion of a small business. Staff was required to present a report on the investigation to the Commission. At the December 28, 2004 general session, Staff presented its report to the Commission. The Commission voted at that general session to accept Staff's recommendation that the proposed temporary regulation did not impose a direct and significant burden on small businesses in Nevada or restrict the formation, operation, or expansion of small businesses in Nevada.

The temporary regulation has no addition economic effect on businesses subject to the regulation. The temporary regulation modifies the calculation of the BTER in deferred energy filings. The BTER represents an estimate of future costs incurred by a utility. Actual recovery of those costs takes place in a future proceeding before the Commission. Therefore, the revised Nevada regulation will not have an economic impact either in the intermediate or long term.

Likewise, the public will not be affected by the temporary regulation because the temporary regulation imposes no fee or other charges, and any potential rate impact would occur regardless of this modification. Increased accuracy of the BTER calculation under the temporary regulation will instead lead to more accurate forecasting of rates and decrease the amount of interest and carrying charges paid by ratepayers for an underestimated BTER component of a deferred energy application.

6. The estimated cost to the agency for enforcement of the adopted regulation.

At this time, the Commission cannot quantify what, if any, estimated cost it will incur to enforce the adopted temporary regulation.

7. A description of any regulation of other state or government agencies that the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

This temporary regulation does not overlap with any other state or federal regulation.

8. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The temporary regulation is not more stringent than any federal regulation that regulates the same activity.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The Commission does not anticipate any new fees or an increase in any existing fees as a result of the adoption of this temporary regulation.