

**LCB File No. R202-05**

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

**BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA**

Investigation and rulemaking regarding the )  
potential revision of regulations concerning )  
the Base Tariff Energy Rate component of )  
deferred energy filings, and the revision of )  
deferred energy filing regulations to )  
conform with state law. )  
\_\_\_\_\_ )

Docket No. 04-6022

**NOTICE OF INTENT TO AMEND/ADOPT REGULATIONS**

**AND**

**NOTICE OF WORKSHOP**

**AND**

**NOTICE OF HEARING**

The following information is provided pursuant to the requirements of Nevada Revised Statutes 233B.0603: On July 7, 2004, the Public Utilities Commission of Nevada (“Commission”) voted to open an investigation and rulemaking docket regarding the potential revision of regulations concerning the Base Tariff Energy Rate (“BTER”) component of deferred energy filings, and the revision of deferred energy filing regulations to conform to state law. This matter was designated by the Commission as Docket No. 04-6022.

An Order was issued on October 13, 2005, by the Commission adopting permanent regulations regarding the BTER component of deferred energy filings. At a workshop held on October 19, 2005, to discuss further revisions to the regulations regarding the BTER component of deferred energy filings to conform to state law, the Presiding Officer directed the Regulatory

Operations Staff of the Commission (“Staff”) to file additional revisions to the proposed regulations on or before December 10, 2005.

The proposed regulation would potentially affect all gas and electric utilities using deferred accounting.

The methodology used by Staff to measure the adverse or beneficial economic effects on small business and the public is a simplified Delphi method. Experts review the text of the proposed regulation and determine the likely impact of the regulation on small businesses and the public. These experts share their responses with each other and form a consensus view.

Concerning immediate beneficial and adverse effects of the proposed regulation, Staff foresees no immediate implementation costs. The costs and benefits of the regulation will be experienced on an ongoing, long-term basis.

The long-term beneficial effects of the increased frequency of rate changes due to quarterly BTER filings would reduce the fluctuations in utility rates, as well as minimize the accumulation of deferred energy accounting adjustment (“DEAA”) balances and carrying charges. By reducing the size of rate changes, the regulation would benefit both large and small businesses, as well as the general public. To the extent that the proposed regulation streamlines the regulatory process and reduces costs, it would benefit all ratepayers including small and large businesses, because the public pays all prudently-incurred costs of utility service.

As the Utilities receive carrying charges on prudently-incurred DEAA balances no matter how large, their earnings should largely be unaffected, except to the extent that large DEAA balances may be a source of concern to investors and lenders. However, the smaller DEAA balances expected under this regulation would reduce such concern by lenders.

Concerning possible long-term adverse effects of this regulation, the increased frequency of rate changes might make it more difficult for small and large businesses and the public to budget for future utility costs.

Staff recommended that the Commission find that the proposed regulation in Phase III of this Docket does not impose a direct and significant adverse impact on the public in general or on small businesses in Nevada based on the following facts:

- a) The proposed changes affect only a single item on the customer's bill;
- b) The proposed changes affect all customer classes equally;
- c) There is no additional administrative cost to the customer in the processing of the bill; and
- d) The advantages of decreased volatility would at least offset any difficulties in budgeting due to the increased frequency of rate changes.

The Commission accepted Staff's recommendations at a duly noticed agenda meeting held on February 16, 2006.

The regulations do not overlap or duplicate any federal, state or local regulations. The regulations do not establish any new fee or increase an existing fee.

**NOTICE IS HEREBY GIVEN** that the Public Utilities Commission of Nevada ("Commission") will hold a **WORKSHOP** on **Tuesday, April 11, 2006**, 10:00 a.m., at the offices of the Commission, Hearing Room A, 1150 E. William Street, Carson City, Nevada, 89701, at which time interested persons may appear and be heard. This workshop may be continued day to day as necessary. The purpose of this workshop is to receive comments from all interested persons regarding the potential revision of regulations concerning the BTER component of deferred energy filings, and the revision of deferred energy filing regulations to conform to state law.

**NOTICE IS HEREBY GIVEN** that the Public Utilities Commission of Nevada ("Commission") will hold a **HEARING** on **Tuesday, April 11, 2006**, 10:30 a.m., at the offices of the Commission, Hearing Room A, 1150 East William Street, Carson City, Nevada 89701 and via videoconference to Hearing Room A, 101 Convention Center Drive, Suite 250, Las Vegas,

Nevada, 89109 at which time interested persons may appear and be heard. This hearing may be continued day to day as necessary. The purpose of this hearing is to receive comments from all interested persons regarding the potential revision of regulations concerning the BTER component of deferred energy filings, and the revision of deferred energy filing regulations to conform to state law.

Persons wishing to comment upon the proposed action of the Commission may appear at the scheduled public workshop or hearing, or address their comments, data, views, or arguments, in written form, to the Secretary of the Commission, 1150 East William Street, Carson City, Nevada 89701 or 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109. Written submissions must be received by the Commission **on or before Friday, March 17, 2006, at 3 p.m.**

A copy of this notice and the proposed regulations 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 proposed regulations will be available at the offices of the Commission, at 1150 East William Street, Carson City, Nevada 89701 or 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109; 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 regulations 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 regulations 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 adopting any regulation, the agency, 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 reason for overruling the consideration urged against its adoption.

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

By the Commission,

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CRYSTAL JACKSON, Commission Secretary

Dated: Carson City, Nevada

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(SEAL)

**LCB File No. R202-05**

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

**(This draft replaces the one posted 11/29/2005)**

January \_\_, 2006

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

AUTHORITY: §§1-3, NRS 703.025, 704.185, 704.187 and 704.210; §§4-6, NRS 703.025, 704.187 and 704.210.

A REGULATION relating to public utilities; revising the provisions governing deferred accounting by certain electric utilities and gas utilities; 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 to 5, inclusive, of this regulation.

**Sec. 2.** *“Annual rate adjustment application” defined. “Annual rate adjustment application” means an application filed by a gas utility making quarterly rate adjustments to clear its natural gas deferred energy accounts pursuant to NAC 704.023 to 704.195, inclusive.*

**Sec. 3.** *“Quarterly rate adjustment” defined. “Quarterly rate adjustment” means a quarterly adjustment to the gas utility’s base tariff energy rate for natural gas based on changes in the utility’s recorded costs of natural gas purchased for resale.*

**Sec. 4.** *Quarterly rate adjustment application*

*1. A gas utility which purchases natural gas for resale must first file an application, pursuant to Section 8 of NRS 704.110, and receive approval to adjust its base tariff energy rate on a quarterly basis between annual rate adjustment applications.*

*2. The application filed pursuant to subsection 1 shall include but not be limited to:*

*(a) The rationale supporting its request to implement quarterly rate adjustments;*

*(b) The proposed effective dates for each of the four quarterly rate adjustments;*

*(c) The proposed annual adjustment filing date;*

*(d) The proposed adjustment date;*

*(e) The methodology to be used to calculate the quarterly rate adjustment and the rationale for selecting this methodology; and, if applicable,*

*(f) The proposed initial quarterly rate adjustment.*

**Sec. 5:** *Termination of quarterly rate adjustments*

*A gas utility may file an application requesting approval to terminate its quarterly rate adjustment authority and to establish the base tariff energy rate pursuant to subsection 3 of section 1 of LCB File No. R084-05, which was adopted by the Public Utilities Commission of Nevada and which was filed with the Secretary of State on October 31, 2005, or NAC 704.116.*

*The application shall include but not be limited to:*

*(a) The rationale supporting the request to terminate quarterly rate adjustment;*

*(b) The proposed effective date for the transition; and, if applicable,*

*(c) The proposed base tariff energy rate calculated pursuant to NAC 704.135.*

**Sec. 6.** NAC 704.023 is hereby amended to read as follows:

704.023 As used in NAC 704.023 to 704.195, inclusive, *and sections 2 to 5 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 704.024 to 704.063, inclusive, have the meanings ascribed to them in those sections.

**Sec. 7.** NAC 704.056 is hereby amended to read as follows:

704.056 “Gas utility” means a gas utility that elects to use deferred energy accounting pursuant to NRS 704.185 *or is authorized to make quarterly rate adjustments pursuant to section 8 of NRS 704.110.*

**Sec. 8.** NAC 704.111 is hereby amended to read as follows:

NAC 704.111 1. For each electric utility:

(a) The electric utility shall clear annually any debit or credit balance in FERC Account No. 186 over an approved period by dividing the cumulative debit or credit balance by the total Nevada jurisdictional kilowatt-hours which have been sold during the test period. The resulting positive or negative deferred energy accounting adjustment must be applied to each Nevada jurisdictional customer’s monthly use of energy expressed in kilowatt-hours.

(b) If the electric utility requests or is ordered to clear any debit or credit balance in FERC Account No. 186 over an amortization period exceeding 12 months, the cumulative debit balance, subject to subsection 3, or credit balance at the end of the test period must be transferred to a separate subaccount. The cumulative balance must be multiplied by the ratio of 12 months to the number of months in the extended amortization period. The debit or credit amount so derived must be divided by the Nevada jurisdictional kilowatt-hours sold during the test period. The resulting positive or negative deferred energy accounting adjustment must be applied to each Nevada jurisdictional customer’s monthly use of energy expressed in kilowatt-hours. At the end of the amortization period, any remaining balance must be transferred to the nonsegregated deferred account subaccount.

(c) The electric utility shall not bill or credit the deferred energy accounting adjustment to the customers of the electric utility until authorized by the Commission after a proper deferred energy application is made therefor.

2. For each gas utility:

(a) The gas utility shall clear annually any debit or credit balance in FERC Account No. 191 by dividing the cumulative debit or credit balance by the total Nevada jurisdictional therms which have been sold during the test period. The resulting positive or negative deferred energy accounting adjustment must be applied to each Nevada jurisdictional customer's monthly use of energy expressed in therms.

(b) The gas utility shall not bill or credit the deferred energy accounting adjustment to the customers of the gas utility until authorized by the Commission after a proper deferred energy application *or proper annual adjustment application* is made therefor.

3. The recovery of a debit balance in FERC Account No. 186, for electric operations, or FERC Account No. 191, for gas operations, must be limited by the most recently authorized Nevada jurisdictional rate of return for the specific operation of the electric utility or gas utility. If the Nevada jurisdictional rate of return submitted for an operating department of the electric utility or gas utility exceeds the most recently authorized rate of return for the utility, an amount equal to the amount which exceeds the utility's last authorized rate of return must be carried forward to the next test period.

**Sec. 9.** NAC 704.195 is hereby amended to read as follows:

704.195 1. Not later than 45 days after the end of each month in every deferred energy period, each electric utility and gas utility shall submit to the Commission a report containing all transactions and calculations affecting the deferred energy accounts. The monthly reports must include any other information or data required by the Commission to expedite or facilitate the deferred energy application and hearing *or annual rate adjustment application and hearing* necessary to clear the balances of deferred energy accounts.

2. Each electric utility shall submit in its monthly reports for electric operations the monthly cost of all energy generated and purchased, indicating:

(a) The number of megawatt-hours generated as to quantity, cost and type of fuel used in each generating unit;

(b) The number of megawatt-hours purchased and the cost, including demand charges, for each supplier by rate schedule or contract; and

(c) The basis of charges and data supporting those charges.

3. Each gas utility shall submit in its monthly reports for gas operations the monthly cost of all gas purchased, indicating:

(a) The quantity and cost of gas purchased from each supplier by rate schedule or contract; and

(b) The basis of the charges and the invoices supporting the charges.

**Sec. 10.** Section 1 of LCB File No. R084-05, which was adopted by the Public Utilities Commission of Nevada and which was filed with the Secretary of State on October 31, 2005, is hereby amended to read as follows:

1. If an electric utility provides notice in its deferred energy application, the electric utility may update its base tariff energy rate calculation 60 days after filing its deferred energy application.

2. An electric utility may file an application to revise its base tariff energy rate if it does not have pending a deferred energy application pursuant to subsection 2 of NAC 704.116.

An electric utility that files an application to revise its base tariff energy rate must:

- (a) Submit the application to revise its base tariff energy rate not less than 120 days before the adjustment date for the deferred energy application filed pursuant to subsection 1 of NAC 704.116; and
  - (b) Calculate the base tariff energy rate pursuant to NAC 704.130.
3. In accordance with subsection 7 of NRS 704.110, a gas utility may file an application to revise its base tariff energy rate every 30 days ~~and~~ *unless the Commission has approved a quarterly adjustment pursuant to the provisions of NRS 704.100 and 704.110.*
  4. If an electric utility files an application to revise its base tariff energy rate pursuant to subsection 2 and the Commission authorizes a revised rate, the Commission will provide that the revised rate becomes effective on the day following the adjustment date for the deferred energy application filed pursuant to subsection 1 of NAC 704.116.

**Sec. 11.** Section 3 of LCB File No. R084-05, which was adopted by the Public Utilities Commission of Nevada and which was filed with the Secretary of State on October 31, 2005, 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 cost of fuel for electric generation and purchased power by applicable sales as described in NAC 704.130; or
2. For a gas utility *not making quarterly rate adjustments*, the rate determined by dividing the cost of purchased gas by applicable sales as described in NAC 704.135.
3. *For a gas utility making quarterly rate adjustments, the rate determined by the methodology approved by the Commission pursuant to section 4.*

**Sec. 12** Section 4 of LCB File No. R084-05, which was adopted by the Public Utilities Commission of Nevada and which was filed with the Secretary of State on October 31, 2005, is hereby amended to read as follows:

Sec. 4. 704.116 is hereby amended to read as follows:

704.116 1. Except as otherwise provided in subsection 2 *or subsection 3*, 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, *unless authorized to make quarterly rate adjustments*, 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. *A gas utility authorized to file quarterly rate adjustments pursuant to section 8 of NRS 704.110 shall file an annual rate adjustment application with the Commission for each of its jurisdictional operating departments in this State setting forth its calculations of the deferred energy accounting adjustment. The annual rate application shall be filed no later than the date approved by the Commission pursuant to section 4.*

~~4.3.1~~ Each electric utility and gas utility shall file its deferred energy application not later than 45 days after the adjustment date.

~~5.4.~~ 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.

~~6.5.~~ The deferred energy accounting adjustment of an electric utility or gas utility must be calculated pursuant to NAC 704.101 and 704.111.

~~7.6.~~ ~~The~~ *In a deferred energy application;*

*(a) The* base tariff energy rate of an electric utility ~~for gas utility~~ must be calculated pursuant to NAC 704.130. ~~for 704.135, respectively.~~

*(b) The base tariff energy rate of a gas utility must be calculated pursuant to NAC 704.135.*

~~8.7.~~ The base tariff energy rate of an electric utility or gas utility, *unless authorized to make quarterly rate adjustments*, remains in effect until a revised rate is authorized by the Commission.

~~9.8.~~ 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. 13.** Section 5 of LCB File No. R084-05, which was adopted by the Public Utilities Commission of Nevada and which was filed with the Secretary of State on October 31, 2005, is hereby amended to read as follows:

Sec. 5. 704.118 is hereby amended to read as follows:

704.118 1. An electric utility or gas utility that files a deferred energy application pursuant to NAC 704.116, an electric utility that files an application to revise its base tariff energy rate pursuant to subsection 2 of section 1 of this regulation or a gas utility that files an application to revise its base tariff energy rate pursuant to subsection 3 of section 1 of this regulation *or a gas utility filing an annual rate adjustment application pursuant to section 3 of NAC 704.116* 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).

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.

***4. A gas utility authorized to make quarterly rate adjustments shall provide for each quarterly rate adjustment:***

***(a) Notice to the Commission pursuant to paragraphs (a) and (b) of section 8 of NRS 704.110, which includes but is not limited to:***

***(i) A copy of the quarterly rate adjustment notice the gas utility will provide to its customers;***

***(ii) Supporting information for all amounts shown in the quarterly rate adjustment notice will provide its customers; and***

***(iii) The calculations supporting the base tariff energy rate change.***

*(b) Commensurate with the notice provide pursuant to subsection a the gas utility shall provide to the Regulatory Operations Staff of the Commission and the Bureau of Consumer Protection of the Office of the Attorney General a copy of the notice provided to the Commission and documentation supporting the quarterly rate adjustment calculation.*

*(c) Notice to the consumers pursuant to paragraph (b) of section 8 of NRS 704.110 and NAC 703.160.*

**Sec. 14.** Section 7 of LCB File No. R084-05, which was adopted by the Public Utilities Commission of Nevada and which was filed with the Secretary of State on October 31, 2005, is hereby amended to read as follows:

Sec. 7. NAC 704.135 is hereby amended to read as follows:

704.135 1. A gas utility *not making quarterly rate adjustments* shall, pursuant to subsections 2 and 3, calculate a forecasted and an historic base tariff energy rate (BTER) for purchased gas and recommend its preferred base tariff energy rate to the Commission.

2. The gas utility shall calculate a forecasted base tariff energy rate based on the following formula:

Where:

PG = Sales volumes of the gas utility, including an adjustment for projected shrinkage in the distribution system and the consumption of gas by an upstream pipeline company, used to calculate purchases necessary to support the given level of sales for the test period expressed in therms.

UG = The projected *weighted* average unit price that will be paid for gas ~~[to each supplier]~~ during the period in which the rate will be in effect.

SG = Actual volumes of gas sold for the test period expressed in therms.

FG = Fixed costs associated with the purchase of gas for the period in which the rate will be in effect as may be enumerated in the accounts specified in paragraph (e) of subsection 2 of NAC 704.120.

*VG = Variable transportation costs.*

*TG = Distribution system shrinkage costs paid by transportation customers.*

Then:

$$(PG \times UG) + FG + (VG - TG)$$

$$BTER = \frac{\quad}{SG}$$

3. ~~The~~ *Except as otherwise provided in subsection 4, the* gas utility shall calculate an historic base tariff energy rate based on the following formula:

Where:

PG = Sales volumes of the gas utility, including an adjustment for projected shrinkage in the distribution system and the consumption of gas by an upstream pipeline company, used to calculate purchases necessary to support the given level of sales for the test period expressed in therms.

UG = The *weighted average of the* latest experienced unit ~~price~~ *prices* paid for gas ~~to each gas supplier~~ during the test period.

SG = Actual volumes of gas sold for the test period expressed in therms.

FG = Annualized fixed costs associated with the purchase of gas for the test period as may be enumerated in the accounts specified in paragraph (e) of subsection 2 of NAC 704.120.

*VG = Variable transportation costs.*

*TG = Distribution system shrinkage costs paid by transportation customers.*

Then:

$$(PG \times UG) + FG + (VG - TG)$$

$$BTER = \frac{\text{—————}}{SG}$$

**4.** *A gas utility that makes quarterly rate adjustments shall calculate the base tariff energy using the methodology approved by the Commission in section 4.*

**Sec. 15.** Chapter 703 of NAC is hereby amended as follows:

NAC 703.160 11. *Except for quarterly rate adjustment filings pursuant to section 8 of NRS 704.110, the ~~The~~ provisions of this section apply to the following filings or proceedings:*

(a) An application or tariff filing involving any authorization, expansion, reduction or curtailment of services, facilities or authority, any increase in rates, fares or charges, or any change in regulations.

(b) A complaint filed with the Commission pursuant to NAC 703.651.

(c) A petition.

(d) A prehearing conference.

(e) A workshop.

(f) A consumer session.

(g) A hearing.