

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

LCB File No. R173-07

Effective April 17, 2008

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

AUTHORITY: §§1-20, NRS 701B.840.

A REGULATION relating to energy; adopting certain federal regulations by reference; providing definitions regarding the Waterpower Energy Systems Demonstration Program; providing incentives for participants in the Program; providing requirements for the annual plan filed in regard to the Program; providing requirements for waterpower energy systems used for the Program; providing requirements for the master application filed in regard to the Program; providing requirements for accounting for the Program; and providing other matters properly relating thereto.

Section 1. Chapter 701B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 20, inclusive, of this regulation.

Sec. 2. *The Public Utilities Commission of Nevada hereby adopts by reference from the Uniform System of Accounts of the Federal Energy Regulatory Commission the account identified as Other Regulatory Assets, FERC Account No. 182.3. This account is contained in 18 C.F.R. Parts 101 and 201, and the volume of the Code of Federal Regulations containing these parts may be purchased from the Superintendent of Documents, United States Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or toll-free at (866) 512-1800, for the price of \$62.*

Sec. 3. *As used in sections 3 to 20, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 4 to 13, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 4. *“Applicant” has the meaning ascribed to it in NRS 701B.720.*

Sec. 5. *“Commission” has the meaning ascribed to it in NRS 701B.730.*

Sec. 6. *“Participant” means a person who has been selected by the Task Force to participate in the Waterpower Demonstration Program.*

Sec. 7. *“Program year” has the meaning ascribed to it in NRS 701B.760.*

Sec. 8. *“Task Force” has the meaning ascribed to it in NRS 701B.770.*

Sec. 9. *“Utility” has the meaning ascribed to it in NRS 701B.780.*

Sec. 10. *“Waterpower” has the meaning ascribed to it in NRS 701B.790.*

Sec. 11. *“Waterpower Demonstration Program” or “Program” has the meaning ascribed to it in NRS 701B.810.*

Sec. 12. *“Waterpower Demonstration Program rate” means the rate established pursuant to section 19 of this regulation.*

Sec. 13. *“Waterpower energy system” has the meaning ascribed to it in NRS 701B.800.*

Sec. 14. 1. *For a program year, a utility shall offer to a participant an incentive in the form of a rebate. For all of the watts up to and including the first 50 kilowatts of installed capacity of a waterpower energy system, the utility shall offer the lesser of:*

(a) The total dollar amount obtained by multiplying \$2.50 by the number of watts calculated pursuant to subsection 2; or

(b) Sixty percent of the eligible installed system cost.

2. *The applicant must provide to the utility, within 30 days after applying for participation in the Waterpower Demonstration Program, a computation stamped by an engineer who is a licensed professional engineer in the State of Nevada that provides the estimated hours of operation of the waterpower energy system and the estimated annual kilowatt-hour output of*

the proposed system. The estimated kilowatt-hour output must be divided by the greater of 1752 hours or the estimated hours of operation to calculate the number of watts for the purposes of paragraph (a) of subsection 1.

3. If the incentives for a participant's first program year change between the time his application is approved and the time his waterpower energy system is completed, the participant must receive for that program year the incentives established at the time that his application was approved.

Sec. 15. *Pursuant to NRS 701B.850, a utility shall file with the Commission an annual plan which must include the following:*

1. A schedule describing major program milestones;

2. A budget with the following categories:

(a) Incentives;

(b) Contractor costs;

(c) Marketing costs;

(d) Training costs; and

(e) Utility administrative costs;

3. A report on previous program years and the current program year which includes, without limitation, the most up-to-date versions of the following information for each program year:

(a) The number of applications filed;

(b) The number of participants enrolled in the Waterpower Demonstration Program and the number who have dropped out of the Waterpower Demonstration Program;

(c) The annual budget and expenditures;

- (d) Any remaining financial obligations at the end of a program year;*
- (e) A list of completed installations;*
- (f) A summary of marketing results;*
- (g) A description of training and educational activities; and*
- (h) The results of participant surveys;*
- 4. A description of the application process, including, without limitation:*
 - (a) The procedures to be followed by the utility and the applicant;*
 - (b) The criteria for selection of applicants for the Waterpower Demonstration Program, for the selection of applicants for the prioritized waiting list and for the promotion of applicants from the prioritized waiting list to the Waterpower Demonstration Program;*
 - (c) Copies of proposed applications and forms;*
 - (d) A schedule for the application process with estimated dates for when the utility will forward recommendations for approval by the Task Force; and*
 - (e) A template for a recommendation document containing the list of applications proposed for approval for the Waterpower Demonstration Program and for the prioritized waiting list;*
- 5. The total of all incentives proposed to be paid for the program year;*
- 6. A detailed advertising plan;*
- 7. An education and training plan;*
- 8. An inspection and verification plan for waterpower energy systems which verifies that an applicant or participant meets all applicable requirements; and*
- 9. A survey for participants which includes, without limitation, questions on:*
 - (a) The operational effectiveness of the participant's waterpower energy system, including, without limitation, the total kilowatt-hours of electricity generated per program year; and*

(b) Any other information regarding the effectiveness of the Waterpower Demonstration Program.

Sec. 16. 1. *A waterpower energy system must be located on property within the Nevada service territory of a participating utility.*

2. An applicant must prove that his waterpower energy system has never been previously installed at another location.

3. The waterpower energy system must be on property owned by the participant.

Sec. 17. *The master application which a utility must submit to the Task Force must include the following:*

1. The annual plan for the applicable program year, as modified and approved by the Commission;

2. The completed application for each applicant;

3. A list of the applications recommended for approval, indicating which are existing applications recommended for promotion from a previous prioritized waiting list and which are new applications; and

4. A prioritized waiting list.

Sec. 18. 1. *All reasonable and prudent costs associated with carrying out and administering the Waterpower Demonstration Program must be accounted for in the books and records of a utility separately from amounts attributable to any other activity. The utility must account for the costs and revenues in the following manner:*

(a) Calculate, on a monthly basis, the costs incurred and revenues received in the Waterpower Demonstration Program since the end of the test period in its last proceeding to change the Waterpower Demonstration Program rate;

(b) Record the cost of the Waterpower Demonstration Program in a separate subaccount of FERC Account No. 182.3 and make an appropriate offset to other subaccounts;

(c) Maintain subsidiary records of the subaccount of FERC Account No. 182.3 which must clearly delineate, without limitation, the incentives, contractor costs, marketing costs, training costs and utility administrative costs associated with the Waterpower Demonstration Program;

(d) Record in the subaccount of FERC Account No. 182.3 the revenues attributable to the rate established pursuant to section 19 of this regulation to recover the Waterpower Demonstration Program cost; and

(e) Apply a carrying charge at the rate of 1/12 of the authorized rate of return to the monthly ending balance in the subaccount of FERC Account No. 182.3.

2. The utility's labor costs and overhead costs related to the Waterpower Demonstration Program must be recovered in a general rate case filing.

Sec. 19. 1. *A utility shall include with its annual deferred energy accounting adjustment application filed pursuant to subsection 9 of NRS 704.110 a revised Waterpower Demonstration Program rate. The rate must be calculated by adding the following two components:*

(a) A prospective rate determined by dividing the total costs in the Waterpower Demonstration Program annual plan by the projected kilowatt-hours for the program year; and

(b) A clearing rate determined by dividing the cumulative balance in the Waterpower Demonstration Program subaccount of FERC Account No. 182.3 at the end of the deferred energy test period as defined in NAC 704.063 by the test period kilowatt-hour sales.

2. The Commission will allow recovery of all prudent Waterpower Demonstration Program costs included in the subaccount of FERC Account 182.3 at the end of the test period as defined in NAC 704.063 and adjust the Waterpower Demonstration Program rate accordingly.

Sec. 20. Not later than 150 days after the annual plan is filed pursuant to section 15 of this regulation, the Commission will issue an order approving the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R173-07**

The Public Utilities Commission of Nevada adopted regulations assigned LCB File No. R173-07 which pertain to chapter 701B of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

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

Copies of the proposed regulations, notice of intent to act upon the regulation and notice of workshop and hearing were sent by U.S. mail and email to persons who were known to have an interest in the subject of the Solar Energy Systems Incentive Program (“Solar Program”), the Wind Energy Systems Demonstration Program (“Wind Program”), and the Waterpower Energy Systems Demonstration Program (“Water Program”). These documents were also made available at the website of the Public Utilities Commission (“PUC”), <http://pucweb1.state.nv.us/PUCN/>, mailed to all county libraries in Nevada, published in the following newspapers:

Elko Daily Free Press
Las Vegas Review Journal
Nevada Appeal
Reno Gazette Journal
Tonopah Times-Bonanza

and posted at the following locations:

Public Utilities Commission
1150 East William Street
Carson City, NV 89701

First Judicial District Court
885 East Musser Street
Carson City, Nevada 89701

Eighth Judicial District Court
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155

Public Utilities Commission
101 Convention Center Drive, Suite 250
Las Vegas, NV 89109

Second Judicial District Court
75 Court Street
Reno, NV 89501

Participants in the workshops and hearing (“Participants”) discussed changes in the Solar Energy Systems Incentive Program to address the rate of attrition among participants in the demonstration phase of the program.

Participants discussed an error in the language in NRS 701B.630 regarding the Wind Program, which places responsibility for conducting a duly noticed hearing on the Task Force for Renewable Energy and Energy Conservation (“Task Force”) rather than the PUC. In NRS 701B.270, and NRS 701B.890, the parallel sections for the Solar Program and the Water Program respectively, responsibility for conducting a duly noticed hearing is correctly placed on the PUC rather than the Task Force.

Participants discussed an error in NRS 701B.830, in which the responsibility for administration and delivery of the Water Program is placed on the Task Force, but should be placed on the utility. Participants discussed another error in NRS 701B.740 regarding the Water Program, in which “participant” in the program is defined incorrectly to be a person selected by the Commission rather than the Task Force. The regulations define participants in the Water Program correctly as selected by the Task Force at Section 5 of LCB File No. 173-07.

Participants discussed rebates for each of the three programs, and whether participants in the program should pay a fee. Participants discussed whether it would be appropriate to require certain participants installing solar energy systems to purchase certain warranties for those systems. Participants discussed the appropriate accounting for the programs, how costs should be represented to ratepayers on statements, and the proceeding in which the utilities should apply to recover the costs of implementing the programs. Participants discussed the order of the entire process from beginning to end of each program year, and particularly the time allowed for the Commission to issue an order regarding a utility’s annual plan for each program.

Participants discussed a section of the Solar Program regulations to address deviation from the regulations in NAC Chapter 701B for good cause.

A copy of the transcript of the proceedings is available for review at the office of the PUC, 1150 East William Street, Carson City, Nevada 89701 and 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

2. The number of persons who:

- (a) attended each hearing:** January 4, 2008 - 5
- (b) testified at each hearing:** December 12, 2007 - 5
- (c) submitted to the agency written comments:** 3

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 in the same manner as they were solicited from the public.

The summary may be obtained as instructed in the response to question #1.

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.**

The permanent regulations were adopted on January 24, 2008. The regulations were revised to implement changes discussed at the workshop and hearing.

5. **The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**
 - (a) **Both adverse and beneficial effects;**
 - (b) **Both immediate and long-term effects;**

(a) Both adverse and beneficial effects:

No adverse effects of the proposed regulations on small businesses or on the public are anticipated. However, the costs of implementing the programs may be recovered by utilities in rates.

Small businesses and other members of the public may benefit from applying to participate in the programs and thereby offsetting the cost of their electricity.

(b) Both immediate and long-term effects:

See Item #5(a).

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

There is no additional cost to the agency for enforcement of these regulations.

7. **A description of any regulation of other state or government agencies which 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.**

These regulations do not overlap or duplicate any federal, state, or local regulations.

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

N/A

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.

N/A

10. If the proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?

The PUC determined that the proposed regulations do not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business. In making this determination, the PUC adopted the findings of the Regulatory Operations Staff, which conducted a Delphi Method exercise to determine the impacts. The Delphi Method is a systematic, interactive, forecasting method based on independent inputs of selected experts.

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Investigation and rulemaking to adopt, amend, or repeal)
regulations pertaining to Chapter 701B of the Nevada)
Administrative Code regarding the Solar Incentive) Docket No. 07-06026
Program, Wind Demonstration and Waterpower)
Demonstration programs and other related utility)
matters in accordance with Senate Bill 437.)
_____)

At a general session of the Public Utilities
Commission of Nevada, held at its offices
on January 24, 2008.

PRESENT: Chairman Jo Ann P. Kelly
Commissioner Rebecca D. Wagner
Commissioner Sam A. Thompson
Commission Secretary Crystal Jackson

ORDER ADOPTING PROPOSED REGULATIONS AS PERMANENT

The Public Utilities Commission of Nevada (“Commission”) makes the following
findings of fact and conclusions of law:

1. On June 14, 2007, the Commission opened a rulemaking to adopt, amend, or
repeal regulations pertaining to Chapter 701 B of the Nevada Administrative Code regarding the
Solar Incentive Program (“Solar Program”), Wind Demonstration and Waterpower
Demonstration Programs and other related utility matters in accordance with Senate Bill 437.

This matter was designated as Docket No. 07-06026.

2. This rulemaking was opened pursuant to the Nevada Revised Statutes (“NRS”)
and the Nevada Administrative Code Chapters 233B, 701B, 703, and 704.

3. On June 20, 2007, the Presiding Officer issued a Notice of Request for Comments
and Proposed Regulations.

4. On July 20, 2007, the Presiding Officer received Comments from the Regulatory
Operations Staff (“Staff”) of the Commission, Nevada Power Company (“NPC”) and Sierra

Pacific Power Company (“SPPC”). The Attorney General’s Bureau of Consumer Protection (“BCP”) filed a Notice of Intent to Participate.

5. On August 1, 2007, the Presiding Officer received Reply Comments from the BCP, Staff, NPC and SPPC.

6. A workshop was held on September 11, 2007.

7. On September 25, 2007, the participants filed Consensus Comments Regarding Warranties Applicable to the Solar Energy Systems Incentive Program.

8. On November 1, 2007, the Presiding Officer sent proposed regulations regarding the Solar Incentive Program, Wind Demonstration and Waterpower Demonstration programs to the Legislative Counsel Bureau (“LCB”). The LCB designated the proposed regulations as LCB File Nos. R173-07, R174-07, and R175-07.

9. On November 5, 2007, the Presiding Officer issued a Procedural Order. The proposed regulations were attached. Staff was directed to conduct an investigation pursuant to NRS 233B.0608 to determine whether the proposed regulations issued by the Presiding Officer are likely to: (a) impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business.

10. On November 15, 2007, the Presiding Officer issued Procedural Order No. 2, requesting more information about the warranty language proposed by the participants who filed Consensus Comments Regarding Warranties Applicable to the Solar Energy Systems Incentive Program on September 25, 2007.

11. On November 30, 2007, following Staff’s recommendation at Agenda 24-07, the Commission issued an Order finding that the proposed regulations do not impose a direct and

significant economic burden upon small businesses, nor do they directly restrict the formation, operation, or expansion of a small business.

12. On November 30, 2007, the LCB returned the proposed regulations to the Commission in revised form. The revisions did not affect the Small Business Impact evaluation.

13. On December 13, 2007, Comments regarding the warranty provisions in the Solar Energy Systems Incentive Program regulations were filed by Staff, the BCP, NPC and SPPC.

14. On December 18, 2007, the Commission issued a Notice of Intent to Act Upon a Regulation and Notice of Hearing for the Adoption, Amendment and Repeal of Regulations of the Public Utilities Commission of Nevada.

15. On December 28, 2007, the Presiding Officer received Comments from Staff, the BCP, NPC and SPPC.

16. A duly noticed workshop was held January 3, 2008. Appearances were made by: Staff, the BCP, NPC and SPPC, Nevada Renewable Energy & Energy Conservation Task Force, Clark County, Bombard Electric, and the Las Vegas Chapter of the American Solar Energy Society.

17. A duly noticed hearing was held January 4, 2008. Appearances were made by Staff, the BCP, NPC and SPPC.

18. Based on the oral and written comments of the participants as well as further internal review, the Presiding Officer revised the proposed regulations to add language regarding accounting for the three programs, to correct and add information about rebates, to add a section allowing deviation from the regulations for good cause, to set a time limit on the Commission's order regarding the utility's annual plan, and to add a definition for a rate for each program. The proposed regulations, attached hereto as Attachments 1a – Wind Energy Systems Demonstration

Program, 1b – Waterpower Energy Systems Demonstration Program, and 1c – Solar Energy Systems Incentive Program, are the Legislative Counsel Bureau version identified as LCB File No. R173-07, R174-07, and R175-07 dated November 30, 2007, with the changes made pursuant to the workshop and hearing included as underlined text.

19. The Commission finds that it is in the public interest to adopt as permanent the proposed regulations attached hereto and incorporated herein as Attachments 1a, 1b, and 1c.

THEREFORE, based on the foregoing findings of fact and conclusions of law, it is hereby ORDERED that:

1. The proposed regulations, attached hereto and incorporated herein as Attachments 1a – Wind Energy Systems Demonstration Program, 1b – Waterpower Energy Systems Demonstration Program, and 1c – Solar Energy Systems Incentive Program, are ADOPTED AS PERMANENT regulations pursuant to NRS 233B.063.

2. The Commission retains jurisdiction for the purpose of correcting any errors that may have occurred in the drafting or issuance of the Order.

By the Commission,

JO ANN P. KELLY, Chairman

REBECCA D. WAGNER, Commissioner and
Presiding Officer

SAM A. THOMPSON, Commissioner

Attest: _____
CRYSTAL JACKSON, Commission Secretary

Dated: Carson City, Nevada