

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

LCB File No. R095-08

Effective September 29, 2008

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

AUTHORITY: §§1-17, NRS 703.025, 704.210, 704.991 and 704.992.

A REGULATION relating to utilities; adopting certain federal regulations by reference; providing definitions regarding resource planning by certain natural gas utilities; providing methods for gas utilities to recover costs for conservation and energy efficiency programs; providing requirements for the submission and contents of a conservation and energy efficiency plan; providing requirements for the annual filing and contents of a conservation and energy efficiency plan report; providing requirements for accounting for conservation and energy efficiency programs; 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 14, inclusive, of this regulation.

Sec. 2. *“Conservation and energy efficiency plan” means a portfolio of conservation and energy efficiency programs to reduce consumption or improve energy efficiency in a cost-effective manner.*

Sec. 3. *“Energy efficiency” means the use of products, services or practices aimed at the economic use of energy in end-use applications which results in a reduction in the consumption of natural gas.*

Sec. 4. *“Equity adder methodology” means the methodology applied by a gas utility to ensure that the costs of providing service recovered by an application filed pursuant to NRS*

704.110 are through an enhanced return on equity on its investment in conservation and energy efficiency programs included in the rate base.

Sec. 5. *“Gas utility” means a public utility under the jurisdiction of the Commission which purchases gas for resale.*

Sec. 6. *“Substantive conservation and energy efficiency program” means, for a gas utility, a conservation and energy efficiency program included in a conservation and energy efficiency plan accepted by the Commission for which the energy savings can be demonstrated using industry standards.*

Sec. 7. *“Total resource cost test” means a measure of the overall economic efficiency of a conservation and energy efficiency program from the perspective of society which measures the net costs of a conservation and energy efficiency program based on the total costs of the program, including both participant and utility costs.*

Sec. 8. *The Commission 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. Part 201, and the volume of the Code of Federal Regulations containing this part 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. 9. 1. *The purpose of sections 9 to 14, inclusive, of this regulation is to establish methods and programs to remove financial disincentives that discourage a public utility which purchases natural gas for resale from planning and implementing substantive conservation and energy efficiency programs.*

2. The provisions of sections 9 to 14, inclusive, of this regulation apply to all gas utilities that are under the jurisdiction of the Commission and have a budgeted portfolio of substantive conservation and energy efficiency programs.

Sec. 10. To remove financial disincentives that discourage a public utility which purchases natural gas for resale from planning and implementing substantive conservation and energy efficiency programs, a gas utility may implement substantive conservation and energy efficiency programs using an equity adder methodology for cost recovery. In an application pursuant to NRS 704.110 to recover the costs to implement its conservation and energy efficiency plan, the gas utility must calculate its revenue requirements for program costs, as set forth in section 14 of this regulation, to include them in the rate base using the most recently authorized return on equity plus 5 percent.

Sec. 11. 1. A gas utility applying to implement a portfolio of substantive conservation and energy efficiency programs must submit a plan for acceptance by the Commission in conjunction with a general rate case filed pursuant to NRS 704.110 or in an application to implement its conservation and energy efficiency plan filed pursuant to section 10 of this regulation.

2. Every 3 years from the date of the final order in which the gas utility's plan was initially accepted, the utility shall file a conservation and energy efficiency plan with an application to implement its conservation and energy efficiency plan that meets the requirements of section 10 of this regulation.

3. In the case of a gas utility which also provides electric service, the conservation and energy efficiency plan required in subsections 1 and 2 may be submitted in conjunction with the electric utility's resource plan, as defined in NAC 704.9156.

4. Only substantive conservation and energy efficiency programs in a conservation and energy efficiency plan accepted by the Commission are eligible to recover costs pursuant to sections 10 and 14 of this regulation.

5. Within 180 days after a gas utility has filed its conservation and energy efficiency plan, unless filed in conjunction with a general rate case, the Commission will issue an order accepting the plan as filed or specifying portions of the plan which the Commission deems to be inadequate.

Sec. 12. *1. The conservation and energy efficiency plan must include, without limitation:*

(a) An identification of end-uses for programs for conservation and energy efficiency;
(b) An assessment of the savings attributable to technically feasible programs for conservation and energy efficiency, as determined by the gas utility, which must rank the programs in lists according to the level of savings in gas consumption and according to the level of reduction in demand; and

(c) An assessment of technically feasible programs to determine which will produce benefits in peak demand or gas consumption. The gas utility shall estimate the cost of each such program. The methods used for the assessment must be stated in detail, specifically listing the data and assumptions considered in the assessment.

2. In developing its conservation and energy efficiency plan, a gas utility shall consider the impact of applicable new technologies on current options for the plan. The consideration of new technologies must include, without limitation, consideration of the potential impact of advances in digital technology and computer information systems.

3. *A gas utility shall include in its conservation and energy efficiency plan a program for residential customers which reduces the consumption of gas, electricity or any fossil fuel. The energy efficiency program must include the use of new solar thermal energy sources. As used in this subsection, “new solar thermal energy sources” means those sources installed after the effective date of the energy efficiency program that displace gas, electricity or any fossil fuel consumption by using solar radiation to heat water or provide space heating or cooling.*

4. *The conservation and energy efficiency plan must include a list of the programs for which the gas utility is requesting the approval of the Commission. The list must include, without limitation:*

(a) An estimate of the reduction in the peak demand and gas consumption that would result from each proposed program, in therms saved, which lists the programs according to their expected savings and their contribution to a reduction in peak demand and gas consumption based upon realistic estimates of the penetration of the market and the average life of the programs;

(b) An assessment of the costs of each proposed program and the savings produced by the program, including the savings in the costs of transmission and distribution if the program can be relied upon to reduce peak demand on a firm basis;

(c) An assessment of the impact on the gas utility’s load shapes of each proposed and existing program for conservation and energy efficiency;

(d) If a program is an educational program, the projected expenses of the gas utility for the educational program;

(e) A complete life-cycle cost analysis of the costs and benefits of the program in the form of the total resource cost test for any conservation and energy efficiency program which reduces the consumption of gas, electricity or any fossil fuel; and

(f) A discussion of the degree of coordination between any conservation and energy efficiency program of the gas utility with an electric utility serving the same area and any potential cost savings or improvements in cost-effectiveness resulting from such coordination.

5. The gas utility shall include with its conservation and energy efficiency plan a report on the status of all programs for conservation and energy efficiency that have been included in a plan accepted by the Commission. The report must include tables for each such program showing, for each year, the planned reduction in therms, the achieved reduction in therms and the cost of the program. The gas utility shall include other information not elsewhere required in this section as set forth in subsection 3 of section 13 of this regulation.

6. The gas utility shall provide with its conservation and energy efficiency plan any other information necessary to enable an informed reader to examine and verify the adequacy and accuracy of the data, assumptions and methods used in developing the plan.

7. The gas utility shall provide with its conservation and energy efficiency plan a discussion of any change in risk for the gas utility, including, without limitation, stabilization of revenue for the gas utility.

Sec. 13. 1. *Following initial acceptance of the conservation and energy efficiency plan, the gas utility that is implementing substantive conservation and energy efficiency programs shall file annually, between filings required pursuant to subsection 2 of section 11 of this regulation, its conservation and energy efficiency plan report.*

2. The conservation and energy efficiency plan report must address each 12-month period following the acceptance of the conservation and energy efficiency plan and must be filed with the Commission:

(a) Not later than 6 months following the anniversary of the plan filing date established pursuant to section 11 of this regulation; or

(b) In the case of a gas utility which also provides electric service, concurrent with the electric resource plan.

3. When filing the conservation and energy efficiency plan report, the gas utility shall include a copy of the complete analysis the gas utility used in determining, for the forthcoming year, which substantive conservation and energy efficiency programs should be implemented, continued, modified or terminated. The analysis must include, for each program, without limitation:

(a) A description of the program;

(b) Proposed new programs, program modifications and programs the utility requests authority to terminate;

(c) Program goals, objectives and targets for savings;

(d) The level of participation for the program;

(e) A detailed description of the manner of evaluating and monitoring the program;

(f) Verification of activities and results of savings of the program, including, without limitation, the total resource cost test results based on actual program performance;

(g) Estimated savings, including, without limitation, estimated environmental benefits;

(h) A description of the difficulties encountered and recommended solutions;

(i) A detailed description of the costs incurred during the reporting period, separated by program and category, such as marketing, variable and fixed labor, variable and fixed materials and any incentive payment;

(j) A table listing the proposed budget and proposed targets for each program for the following program year;

(k) A table listing each project by estimated therm savings, including, without limitation, information regarding demand savings, expected life, lifetime savings, and total resource cost test cost/benefit ratio; and

(l) Any other information necessary to enable an informed reader to examine and verify the adequacy and accuracy of the data, assumptions and methods used in developing the report.

4. The Commission will process the annual conservation and energy efficiency plan report and analysis within 135 days and issue an order accepting the plan as filed or specifying any portion of the report and analysis which the Commission deems to be inadequate.

Sec. 14. *1. All costs of implementing the substantive conservation and energy efficiency programs included in a conservation and energy efficiency plan accepted by the Commission must be accounted for in the books and records of the gas utility separately from amounts attributable to any other activities. All accounts must be maintained in such a manner as will allow costs attributable to specific programs to be readily identified. These costs must be segregated into the same categories as specified in the budget for the 3-year planning period.*

2. The gas utility may recover all just and reasonable costs for implementing substantive conservation and energy efficiency programs included in an application that the Commission

has accepted either as part of the gas utility's conservation and energy efficiency plan or as modified in the gas utility's annual conservation and energy efficiency plan report. These costs may include, without limitation, costs for labor, overhead, materials, incentives paid to customers, advertising, marketing, measurement, verification and evaluation.

3. To recover costs incurred in implementing substantive conservation and energy efficiency programs, the gas utility must:

(a) Calculate, on a monthly basis, the costs incurred in implementing each program since the end of the period;

(b) Record the total cost of implementing each program, as calculated in paragraph (a), in a separate subaccount of FERC Account No. 182.3 for each program and make an appropriate offset to other subaccounts;

(c) Maintain subsidiary records of the subaccounts of FERC Account No. 182.3 for each program which must clearly delineate all costs incurred by the gas utility in implementing each program accepted by the Commission;

(d) Apply a carrying charge at the rate of 1/12 of the authorized overall rate of return to the current balance in the subaccounts of FERC Account No. 182.3 for each program not included in the rate base; and

(e) Clear any balance accumulated in the subaccounts of FERC Account No. 182.3 for each program in the manner set forth in subsection 4 as a component of an application by the gas utility to change rates.

4. For the purposes of paragraph (e) of subsection 3, to clear a balance:

(a) The Commission will adjust the rate to amortize the balance over a 3-year period, unless otherwise specified by the Commission;

(b) The gas utility must begin amortizing costs on the date that the change in general rates becomes effective;

(c) The gas utility must include the balance in the subaccounts of FERC Account No. 182.3 for each program, including carrying charges, in the rate base as of the date that ends the period used in the application filed by the gas utility pursuant to NRS 704.110; and

(d) If calculating the revenue requirements under the equity adder methodology, the utility must base the rate of return to be applied to the balance in the subaccounts of FERC Account No. 182.3 for each program that the utility has carried out on the most recently authorized return on equity plus 5 percent.

Sec. 15. NAC 704.953 is hereby amended to read as follows:

704.953 As used in NAC 704.953 to 704.9687, inclusive, *and sections 2 to 14, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 704.954 to 704.9605, inclusive, *and sections 2 to 7, inclusive, of this regulation* have the meanings ascribed to them in those sections.

Sec. 16. NAC 704.954 is hereby amended to read as follows:

704.954 “Conservation” means ~~an increase of~~ *improvements in* efficiency in the production, *distribution* or use of energy which results in a reduction in the consumption of natural gas.

Sec. 17. NAC 704.9545 is hereby amended to read as follows:

704.9545 “Demand” means the ~~rate~~ *level* at which natural gas is ~~delivered to or~~ *required* by a system, a part of a system ~~is~~ or a piece of equipment, expressed in therms or other suitable units, at a given instant or averaged over any designated period.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R095-08/PUCN Docket No. 07-06046

The Public Utilities Commission of Nevada adopted regulations assigned LCB File No. R095-08 which pertain to chapter 704 of the Nevada Administrative Code on September 3, 2008. A copy of the regulations as adopted is attached.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS
AS REQUIRED BY NRS 233B.066
LCB File No. R095-08/PUCN Docket No. 07-06046

The following informational statement is submitted for adopted amendments to Nevada Administrative Code ("NAC") Chapter 704.

1. A description of how public comment was solicited, a summary of public response, and explanation 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 hearings were sent by U.S. mail and email to persons who were known to have an interest in the subjects of energy efficiency and conservation programs, demand side management programs, and other related utility matters for gas utilities. These documents were also made available at the website of the Public Utilities Commission of Nevada ("PUCN"), <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, Nevada 89701

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

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

Second Judicial District Court
75 Court Street
Reno, Nevada 89501

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

The public's comments in this matter were submitted in writing and heard during the workshops and the hearings. The comments and discussions during the workshops and the hearings focused on: (1) methods of cost recovery for gas utilities; and (2) the removal of disincentives for gas utilities to encourage energy efficiency and conservation.

Copies of all documents filed in this matter, including this summary, are available at <http://pucweb1.state.nv.us/PUCN> on the PUCN's website or at the offices of the PUCN, at 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; (b) testified at each hearing; and (c) submitted to the agency written statement.

a. Attendees

- i. Workshop, September 21, 2007
 1. Attorney General's Bureau of Consumer Protection ("BCP")
 2. Sierra Pacific Power Company ("SPPC")
 3. Southwest Energy Efficiency Project ("SWEEP")
 4. Southwest Gas Company ("SWG")
 5. Regulatory Operations Staff of the Commission ("Staff")
- ii. Workshop, December 11, 2007
 1. BCP
 2. SPPC
 3. SWG
 4. Staff
- iii. Workshop, January 14, 2008
 1. BCP
 2. International Energy Conservation ("IEC")
 3. SPPC
 4. SWG
 5. Staff
- iv. Workshop, March 25, 2008
 1. BCP
 2. IEC
 3. SPPC
 4. SWEEP
 5. SWG
 6. Staff
- v. Workshop, June 30, 2008
 1. BCP
 2. IEC
 3. SPPC
 4. SWEEP
 5. SWG
 6. Staff

- vi. Hearing, July 2, 2008
 - 1. BCP
 - 2. IEC
 - 3. SPPC
 - 4. SWEEP
 - 5. SWG
 - 6. Staff
- vii. Hearing, August 26, 2008
 - 1. BCP
 - 2. IEC
 - 3. SPPC
 - 4. SWG
 - 5. Staff
- b. Testimony

No formal testimony was offered in this matter. The above noted attendees participated in the workshops and/or hearings.
- c. Written statements

On September 11, 2007, BCP, SPPC, SWEEP, SWG, and Staff filed comments.
On September 18, 2007, BCP, SPPC, and SWG filed reply comments.
On December 10, 2007, Staff filed two versions of proposed draft regulations on behalf of BCP, SPPC, SWG and Staff.
On February 26, 2008, SWEEP filed a brief.
On February 29, 2008, BCP, SWG, and Staff filed briefs.
On March 28, 2008, IEC filed comments.
On April 11, 2008, BCP, SWG, and Staff filed comments.
On June 27, 2008, SPPC and SWG filed comments.
On August 13, 2008, SWEEP filed comments.

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 as outlined in response #1.

The SPPC and SWG submitted written comments and participated in the workshops and the hearings in this matter. In their comments SPPC and SWG raised their concerns regarding the appropriate cost recovery methodologies for their individual companies. SPPC and SWG also discussed the implementation of the methodologies in relation to conservation and energy efficiency program planning and general rate case filings.

Copies of all documents filed in this matter, including this summary, are available at www.puc.state.nv.us on the PUCN's website or at the offices of the PUCN, 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.**

The regulation adopted on September 3, 2008, reflects changes from the original proposed regulation made during the workshops and/or hearings.

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;

The proposed regulations potentially affect those regulated utilities that purchase natural gas for resale. At this time, the PUCN cannot quantify either the adverse or beneficial economic effects on regulated utilities, either immediate or long-term, which may result from the proposed regulations.

At this time the PUCN cannot quantify either the adverse or beneficial economic effects on the public as a whole, either immediate or long-term, which may result from the proposed regulations.

(b) Both immediate and long-term effects.

See response to #5(a).

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

The PUCN believes there will be no significant additional or start-up costs to enforce or administer the new 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.**

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

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.**

These regulations do not establish any new fee or increase an existing fee.

- 10. Is the proposed regulation 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 PUCN determined that the regulation does not impose a direct and significant burden on small businesses or directly restrict the formation, operation or expansion of a small business in Nevada. In making this determination, the PUCN adopted the findings of the Staff. The methodology used by the PUCN and its Staff to determine the impact of proposed regulations on small businesses is called the Delphi Method. The Delphi Method is a systematic, interactive, forecasting method based on independent inputs of selected Staff experts who form a consensus opinion as to the likely impact of the regulation on small businesses and the public.

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Investigation and rulemaking to adopt, amend or repeal)
regulations pertaining to Chapters 703 and 704 of the)
Nevada Administrative Code regarding establishing) Docket No. 07-06046
methods and programs for a public utility which)
purchases natural gas for resale that remove financial)
disincentives which discourage the public utility from)
supporting energy conservation 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 September 3, 2008.

PRESENT: Chairman Jo Ann P. Kelly
Commissioner Rebecca D. Wagner
Commissioner Sam A. Thompson
Commission Assistant Secretary Donna Skau

ORDER ADOPTING PROPOSED REGULATIONS AS PERMANENT

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

I. INTRODUCTION

On June 6, 2007, the Commission voted to open an investigation and rulemaking to
adopt, amend, or repeal regulations pertaining to Chapters 703 and 704 of the Nevada
Administrative Code (“NAC”) regarding establishing methods and programs for a public utility
which purchases natural gas for resale that remove financial disincentives which discourage the
public utility from supporting energy conservation and other related utility matters in accordance
with Senate Bill 437. This matter was designated as Docket No. 07-06046.

During the initial workshops, participants attempted to address two forms of rate recovery, an equity adder method and decoupling method, at the same time. However, as the informal workshop process progressed it was apparent that it would be more efficient to address the subtleties and differing interpretations of the two methods of cost recovery in two separate phases.

A majority consensus on the equity adder method, the Phase I portion of this matter, has been achieved. Phase I will be complete with the adoption of this regulation. Phase II has been submitted to the Legislative Counsel Bureau (“LCB”) and has been noticed for hearing and workshop. As evidenced by the history below, the Commission and the participants have continuously worked, and continue to work, toward crafting final language in both Phase I and Phase II of this Docket.

II. HISTORY

1. On June 6, 2007, the Commission voted to open an investigation and rulemaking to adopt, amend, or repeal regulations pertaining to Chapters 703 and 704 of the NAC regarding establishing methods and programs for a public utility which purchases natural gas for resale that remove financial disincentives which discourage the public utility from supporting energy conservation and other related utility matters in accordance with Senate Bill 437. This matter was designated as Docket No. 07-06046.

2. This matter is being conducted by the Commission pursuant to the Nevada Revised Statutes (“NRS”) and NAC Chapters 233B, 703, and 704, including but not limited to, NRS 704.210.

3. On August 27, 2007, the Commission issued a public notice of this matter.

4. On September 11, 2007, Comments were filed by the Regulatory Operations Staff of the Commission (“Staff”), the Attorney General’s Bureau of Consumer Protection (“BCP”), Sierra Pacific Power Company (“SPPC”), Southwest Gas Company (“SWG”), and Southwest Energy Efficiency Project (“SWEEP”).

5. On September 18, 2007, BCP, SPPC, and SWG filed Reply Comments.

6. On September 21, 2007, a workshop was held. BCP, SPPC, SWEEP, SWG, and Staff attended the workshop. During the workshop, the Presiding Officer discussed issues regarding gas resource planning that were raised by SPPC and introduced the concept of two methods of incentive cost recovery—the equity adder method and the decoupling method. (Tr. at 9–15.) It was established that among the participants there were at least “two camps” at the table. (Id. at 21.) Regarding the equity adder method, the participants represented that SPPC and SWG preferred a very limited DSM-specific regulation. (Id.)

7. On September 26, 2007, a prehearing conference was held. BCP, International Energy Conservation (“IEC”), SPPC, SWG, and Staff attended the prehearing conference. During the prehearing all participants indicated their position that an initial economic investigation into decoupling was not necessary. (Tr. at 6–7.) A procedural schedule was agreed upon. (Id. at 23.) The participants indicated their intention to attempt to meet informally to draft language. (Id. at 29–31.) It was also established that SWG had drafted some preliminary language for discussions among the participants. (Id. at 27.)

8. On November 5, 2007, the Commission issued a Notice of Workshop.

9. On December 10, 2007, Staff filed two versions of proposed draft regulations on behalf of BCP, SPPC, SWG and Staff. In the cover letter Staff noted that consensus had not been reached on the proposed language.

10. On December 11, 2007, a workshop was held. BCP, SPPC, SWG, and Staff attended the workshop. The Presiding Officer raised concerns about developing the public acceptance of the regulation. (Tr. at 29–30.) Regarding developing definitions of conservation and energy efficiency, the Presiding Officer referred the participants to what was already established in the regulations for electric utilities. (Id. at 31–32.) The Presiding Officer also requested more focus developing the actual program language. (Id. at 33–34.)

11. During the December 11, 2007 workshop, Staff stated its position that for a utility to engage in decoupling or any revenue stabilization measure, it must also engage in a conservation program. (Id. at 43.) BCP stated its position that full revenue decoupling would make conservation more cost-effective by mitigating fixed charges to customers while still reducing the risk to the utility. (Id. at 54–55.) SPPC stated its position that the statute is a demand side management statute that provides for revenue decoupling in order to assist in DSM. (Id. at 62–63.) SWG stated its position that the focus of the statute should be on the removal of financial disincentives. (Id. at 76.)

12. On December 14, 2007, the Commission issued a Notice of Workshop.

13. On January 14, 2008, a workshop was held. BCP, IEC, SPPC, SWG, and Staff attended the workshop. The participants indicated that they could agree conceptually to the version of proposed regulations offered by SWG that combined the concepts of decoupling and conservation. (Id. at 111.) It was also indicated that they each individually had exceptions to the language. (Id. at 111–113.) The Presiding Officer indicated that she would receive briefs regarding the linkage between decoupling and conservation and energy efficiency.

14. On January 16, 2008, the Commission issued a Notice of Workshop.

15. On January 25, 2008, the Presiding Officer issued a procedural order that requested all participants to file briefs regarding the linkage between decoupling and conservation and energy efficiency, including the legal and practical ramifications of not linking decoupling to conservation and energy efficiency. The procedural order also requested that General Counsel review the briefs and present its recommendations regarding the linkage between decoupling and conservation and energy efficiency, including the legal and practical ramifications of not linking decoupling to conservation and energy efficiency, at an Agenda Meeting for the Commission's consideration.

16. On February 26, 2008, SWEEP filed its Brief on Full Decoupling vs. Lost Revenue Recovery stating its support of full decoupling.

17. On February 29, 2008, BCP filed its Brief conditionally supporting decoupling. Attached to its brief, the BCP enclosed a draft of proposed regulations by BCP and SWG. The brief indicated that the draft was a work-in-progress towards a consensus on implementing a decoupling mechanism. (BCP's Brief at 12.)

18. On February 29, 2008, Staff filed its Brief. The brief stated Staff's position that decoupling can only be permitted when linked to conservation and energy efficiency.

19. On February 29, 2008, SWG filed its Initial Brief. The brief stated SWG's position that a full decoupling mechanism and procedures for the implementation and cost recover of energy efficiency and/or conservation programs should co-exist. (SWG's Initial Brief at 2.) The brief also indicated that it is SWG's position that decoupling means full decoupling and that it should not be tied to specific energy efficiency and/or conservation programs and results. (Id. at 2-16.)

20. On March 13, 2008, General Counsel provided an overview on its recommendation on the linkage between decoupling and conservation and energy efficiency. No action was taken by the Commission regarding the overview.

21. On March 25, 2008, a workshop was held. BCP, IEC, SPPC, SWEEP, SWG, and Staff attended the workshop. The Presiding Officer received comment from the participants regarding their positions regarding whether the proposed draft language from the Commission comports with General Counsel's overview on March 13, 2008. It was established at this workshop that the participants could not achieve consensus regarding certain issues and would not benefit from further informal workshops. The participants agreed to move forward into the formal NRS 233B workshop and hearing process. (Tr. at 145, 150, 151, and 154.) The Presiding Officer requested that the participants' suggestions and corrections to the proposed draft language be submitted in writing by April 11, 2008.

22. On March 28, 2008, IEC filed comments with suggested language changes and corrections to the proposed draft language discussed at the March 25, 2008 workshop.

23. On April 11, 2008, BCP and Staff filed comments with suggested language changes and corrections to the proposed draft language discussed at the March 25, 2008 workshop.

24. On April 11, 2008, SWG filed comments reiterating the positions it stated in its Initial Brief and rebutting General Counsel's overview. It further stated that it did not believe that the proposed draft regulation meet the mandate of SB 437. (SWG's Comments on Proposed Regulations at 2–3.) Attached to its comments, SWG enclosed a copy of the draft of proposed regulations by BCP and SWG that was attached to BCP's Brief. SWG indicated that it supported this version of the regulations.

25. On April 18, 2008, the Presiding Officer issued a procedural order which divided the proposed regulations and the associated workshop/hearing process into two phases: Phase I to pertain to the portion of the proposed regulations regarding methods and programs for a public utility which purchases natural gas for resale that remove financial disincentives which discourage the public utility from supporting energy conservation by a conservation and energy efficiency equity adder methodology; and Phase II to pertain to the remaining portion of the regulations regarding methods and programs for a public utility which purchases natural gas for resale that remove financial disincentives which discourage the public utility from supporting energy conservation by a conservation and energy efficiency decoupling methodology.

26. On April 18, 2008, the draft language for Phase I was sent to the LCB for review.

27. On May 21, 2008, the Commission received from LCB the draft language for Phase I in revised form, assigned LCB File No. R095-08.

28. On May 23, 2008, the Commission issued a Notice of Intent to Act Upon a Regulation, Notice of Workshop, and Notice of Hearing.

29. On May 23, 2008, the Presiding Officer issued a procedural order directing the Commission's Regulatory Staff to analyze whether the proposed Phase I regulations impose a direct or significant economic burden upon small businesses and present their recommendations to the Commission at an Agenda meeting for the Commission's consideration on or before June 27, 2008.

30. On June 27, 2008, the Commission issued an order finding that the proposed regulations do not impose a direct or significant economic burden upon small business.

31. On June 27, 2008, SWG filed comments on the proposed Phase I regulations and indicated that, to the extent that the draft regulations pertain only to the equity adder methodology, it had no comments.

32. On June 27, 2008, SPPC filed comments on the proposed Phase I regulations. In its comments, SPPC offered proposed language changes for clarification and argued its position that the equity adder should be increased to five percent to mirror the electric regulation.

33. On June 30, 2008, a 233B workshop was held in Phase I. BCP, IEC, SPPC, SWEEP, SWG, and Staff attended the workshop. During the workshop, SPPC and SWG summarized their written comments and the other participants were allowed to respond.

34. During the workshop, the BCP reiterated its position that two percent is an adequate equity adder for a gas utility. (Id. at 174.) SWG expressed concern that any language in Phase I address only the equity adder methodology and that the requirements regarding the general rate case be applicable to both the equity adder methodology and the decoupling methodology. (Id. at 177–178.) SWEEP and IEC expressed support of the five percent equity adder. (Id. at 180–184.)

35. On July 2, 2008, a hearing was held in Phase I. Further substantive language changes were proposed by the participants. (Hearing Tr. at 17–25, 27.)

36. On July 8, 2008, revised draft language for Phase I was sent to the LCB for review. The revised draft incorporated the changes proposed and supported by a majority of the participants, including changes to more closely reflect the statutory language, discussion of change in risk for the gas utility, clarification of when a plan must be filed, additional information to be included in a filed plan and changes to the equity adder percentage.

37. On July 9, 2008, the Commission issued a Notice of Hearing in Phase I.

38. On August 13, 2008, SWEEP filed comments regarding the revised proposed Phase I regulation.

39. On August 22, 2008, the Commission received from LCB the revised draft language for Phase I in revised form, assigned LCB File No. R095-08.

40. On August 26, 2008, a final hearing was held on Phase I. The hearing was attended by BCP, IEC, SPPC, SWG and Staff. SWEEP was not in attendance, but provided comments in support of the proposed Phase I regulations. IEC concurred with the comments of SWEEP. (Id. at 51.)

41. During the hearing further language corrections were suggested by the participants. SPPC, IEC and Staff supported the proposed regulations with the suggested corrections and clarifications made to sections 4, 8, 10, 13, and 14. (Id. at 81–82.) SWG declined to make any comment on the proposed Phase I regulations or changes thereto. (Id. at 81.) BCP reaffirmed its prior comments regarding the proposed Phase I regulations and indicated that it had no objections to the corrections suggested during hearing. (Id. at 82.) The proposed regulation was revised in accord with the consensus of the majority of the participants.

III. COMMISSION DISCUSSION AND FINDINGS

42. Based on the foregoing, the Commission finds that it is in the public interest to adopt the proposed regulations, attached hereto and incorporated herein as Attachment 1, as permanent regulations.

43. All arguments of the parties raised in this proceeding not expressly discussed in this Order have been considered and either rejected, found to be non-essential, or further support the Commission's conclusions.

THEREFORE, it is ORDERED that:

1. The proposed regulations, attached hereto as Attachment 1 are ADOPTED as permanent regulations pursuant to NRS 233B.040 and 233B.060.
2. The Commission retains jurisdiction for the purpose of correcting any errors that may have occurred in the drafting or issuance of this Order.

By the Commission,

JO ANN P. KELLY, Chairman and
Presiding Officer

REBECCA D. WAGNER, Commissioner
(Concurring on the ordering paragraphs and
dissenting on the History section.)

SAM A. THOMPSON, Commissioner

Attest: _____
CRYSTAL JACKSON, Commission Secretary

Dated: Carson City, Nevada

9/3/2008
(SEAL)