

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

LCB File No. R095-08

August 20, 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 recovered without regard to the volume of gas consumed by its customers 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. 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. 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 to implement its conservation and energy efficiency plan, the gas utility must calculate its revenue requirements for proposed 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.

2. 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 and evaluation. The gas utility may recover costs associated with monitoring and evaluating these programs through a general rate case.

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.