

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

LCB File No. R043-12

**Docket No. 12-02014
(March 13, 2012)**

Agency address:

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Purpose of the rule: The Public Utilities Commission of Nevada (“PUCN”) opened an investigation to perform a comprehensive review of its regulations in response to Governor Brian Sandoval’s Executive Order (“EO”) #2011-01 and #2011-04. Upon completion of its review, the Commission identified, consistent with Governor Sandoval’s regulatory priorities and assessments made, regulations that may be repealed or amended.

The PUCN proposes the following modifications: (1) amend NAC 704.675, so that the IS-2 rate comports with current practice of classifying the incremental IS-2 rate exclusive of the universal energy charge as base tariff energy rate to avoid the inequities detailed in PUCN Docket Nos. 10-10031 and 10-10035; (2) amend NAC 704.8897 to bring the regulation in line with current accounting practices and standards as explained in PUCN Docket Nos. 10-03003, 10-03004, 10-03005, and 10-03006; and (3) repeal NAC 704.270-704.273 because the value of reports on transactions with subsidiaries and affiliates are outweighed by the time and effort used to process such reports. If the PUCN needs to inquire further into such a transaction, it will be able to do so on a case-by-case basis.

Statutory authority: NRS 703.025, 704.210, 704.225, and 704.7828

Type of regulation: Permanent Regulations

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

Section 1. NAC 704.675 is hereby amended as follows:

704.675 1. For the period from November 1 to the last day in February, inclusive:

(a) The schedule containing the rate for interruptible service pursuant to NRS 704.225 must provide for charges which are the same as those provided in the utility's regular schedule of rates for irrigation.

(b) Annual charges must be prorated, and any amount attributable to the period from March 1 to October 31, inclusive, must be excluded.

2. The schedule containing the rate for interruptible service pursuant to NRS 704.225 must include a provision requiring the customer to agree to an interruption of service at any time during the period from March 1 to October 31, inclusive, upon notification by the utility pursuant to the conditions set forth in the utility's tariff for interruptible service.

3. ~~[For the purposes of NAC 704.023 to 704.195, inclusive, the base tariff energy]~~ *The incremental* rate applicable to interruptible irrigation sales ~~[is the lesser of the base tariff energy rate applicable to other rate schedules or the rate for interruptible service]~~ *exclusive of the universal energy charge shall be classified as base tariff energy rate.*

Sec. 2. NAC 704.8897 is hereby amended as follows:

1. Within 30 days after the issuance of an order by the Commission to establish a TRED program, the utility provider shall appoint a third-party professional trustee acceptable to the Commission and shall take all actions necessary to initiate a temporary renewable energy development trust. The TRED trust shall receive money collected by the utility provider from

retail customers pursuant to a temporary renewable energy development charge and disburse that money to eligible new renewable energy projects. The TRED trust has the sole right to receive revenue generated by the TRED charge, and the right to receive such revenue constitutes a current property right granted to and vested in the TRED trust.

2. The utility provider shall file an executed copy of the trust agreement between the utility provider and the trustee of the TRED trust with the Commission for its approval.

3. The trust agreement must contain a provision establishing a minimum level of reserve for the TRED trust that is equal to three times the highest projected monthly payment to each eligible new renewable energy project for the period during which the TRED charge will be in effect.

4. The costs incurred by a utility provider to initiate and maintain a TRED trust, including, without limitation, the cost of reserves advanced by the utility provider to the TRED trust, the taxes assessed on the utility provider for amounts related to the TRED trust and the fees charged by the trustee, must be considered expenses associated with the acquisition of purchased power. The amount must be booked by the utility provider in FERC Account No. 182.3 and may be recovered by the utility provider pursuant to the deferred energy accounting process set forth in NAC 704.023 to 704.195, inclusive. *The utility provider shall use a FERC Account 407.3 offset to record tax liability in FERC Account 182.3 and record the tax liability in FERC Accounts 409 and 410.*

5. Once the TRED charge is established by an order of the Commission issued pursuant to NAC 704.8898, the utility provider shall begin collecting the TRED charge from its retail customers. Beginning with the first full calendar week thereafter and continuing once each week following, the utility provider shall estimate and remit to the TRED trust the total amount

collected pursuant to the TRED charge through the last calendar day of the previous collection period.

6. On the 20th calendar day of each month, the utility provider shall provide the trustee of the TRED trust with a statement showing the calculation of the amounts to be disbursed to each eligible new renewable energy project in accordance with its respective renewable energy or portfolio energy credits contracts based on the production of each eligible new renewable energy project during the previous calendar month. The TRED trust shall, within 7 calendar days after receiving the statement from the utility provider, remit payment to each eligible new renewable energy project in accordance with the statement.

TEXT OF REPEALED SECTIONS

704.270 Definitions. (NRS 703.025, 704.210) As used in NAC 704.270 to 704.273, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.2702 to 704.2716, inclusive, have the meanings ascribed to them in those sections.

704.2702 “Affiliate” defined. (NRS 703.025, 704.210) “Affiliate” means a person who directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a public utility.

704.2704 “Control” defined. (NRS 703.025, 704.210) “Control” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through ownership, by contract, or otherwise.

704.2706 “Financial trust” defined. (NRS 703.025, 704.210) “Financial trust” means an affiliate or subsidiary which is created by a public utility for the sole purpose of financing securities.

704.2708 “Material transaction” defined. (NRS 703.025, 704.210) “Material transaction” means:

1. Any contract, business arrangement, joint venture, or partnership which:
 - (a) Is between a public utility and one of its affiliates, subsidiaries, or parents for the acquisition of any goods or services; and
 - (b) Involves goods or services, or a series of transactions for goods or services, valued at \$1,000,000 or more.
2. Any transaction or combination of transactions with a subsidiary or affiliate valued at 3 percent or more of the annual revenues of the public utility which affects the indebtedness, obligations, capital structure, service, personnel, or value of the common stock of the public utility.
3. Recurring payments made pursuant to a general or continuing agreement between a public utility and an affiliate or a subsidiary valued in the aggregate at 3 percent or more of the annual revenues of the public utility.

704.271 “Person” defined. (NRS 703.025, 704.210) “Person” means a natural person, trust, estate, partnership, joint venture, or corporation.

704.2714 “Public utility” defined. (NRS 703.025, 704.210) “Public utility” has the meaning ascribed to it in NRS 704.020.

704.2716 “Subsidiary” defined. (NRS 703.025, 704.210) “Subsidiary” means a person who is controlled by a public utility directly or indirectly through one or more intermediaries.

704.272 Applicability; exemptions from certain requirements. (NRS 703.025, 704.210)

1. Except as otherwise provided in this section, the provisions of NAC 704.270 to 704.273, inclusive, apply to all public utilities.
2. The provisions of NAC 704.270 to 704.273, inclusive, do not apply to a competitive supplier.
3. Unless otherwise ordered by the Commission, transactions which relate solely to telecommunication services deemed competitive or nonregulated pursuant to the provisions of NAC 704.6806 to 704.68076, inclusive, are not required to be included in the report required by NAC 704.2725.
4. A public utility whose rates are:
 - (a) Subject to the jurisdiction of the Commission as set forth in NRS 704.095 and 704.097; or
 - (b) Subject to the jurisdiction of the Commission and whose annual jurisdictional revenues are less than \$2,000,000,is required to comply with the provisions of NAC 704.2725 and 704.273 only when it files an application for a change in general rates.
5. Unless otherwise ordered by the Commission, transactions which relate solely to services which have been approved as part of a public utility's tariff are not required to be included in the report required by NAC 704.2725.
6. Transactions between a public utility and an affiliated financial trust are not required to be included in the report required by NAC 704.2725 if the transactions and issuances involving the utility and trust are subject to the jurisdiction of, and have been specifically approved by, another state or federal regulatory agency. If such transactions and issuances are

not included in the report required by NAC 704.2725, the report must include, for informational purposes, the information filed with the other regulatory agency for approval of the transactions and issuances.

704.2725 Report of public utility which transacts business with subsidiary or affiliate; contents. (NRS 703.025, 704.210) At the time of filing the annual report required by NRS 703.191, a public utility which transacts business with a subsidiary or affiliate must file a report of its material transactions with each such subsidiary or affiliate. The report must contain:

1. The name of each affiliate or subsidiary.
2. The nature of each transaction conducted between the public utility and each of its affiliates or subsidiaries during the period covered by the annual report submitted to the Commission pursuant to NRS 703.191. A public utility which is subject to the requirements of subsection 4 of NAC 704.272 shall use a reporting period from the end of the test period in its last application to change general rates through the current test period.
3. A current financial statement prepared for outside users for each affiliate and subsidiary.
4. An explanation of the effect of current activities and planned activities which have been approved by the board of directors of an affiliate or subsidiary on the public utility's capital structure, including, but not limited to, organizational changes such as the creation of a holding company.
5. The basis upon which the public utility allocates costs of physical plant, revenue, and expenses to each affiliate or subsidiary, and the monetary amount involved, including, but not limited to:
 - (a) An explanation of the derivation of the factors utilized to make such allocations;

(b) Reasons supporting the derivation of the factors utilized to make such allocations;

(c) An explanation of the methodology used in accounting for the allocation of joint, common, direct, and indirect costs between the public utility and each of its affiliates or subsidiaries; and

(d) Reasons supporting the methodology used in accounting for the allocation of such costs.

6. A categorization of the material transactions that occurred during the reporting period between a public utility and each affiliate or subsidiary. The total dollars transferred must equal the total dollars of all categories reported.

7. The basis upon which the cost of any goods or services purchased by the public utility from an affiliate, subsidiary, or parent was determined, including a demonstration that the cost of such goods or services was reasonable in comparison with prices generally available on the open market or the fair market value of such goods or services.

8. Copies of reports or documents which substantially satisfy the requirements of NAC 704.270 to 704.273, inclusive, and which are filed by the public utility with agencies of a state or Federal Government for the reporting period of the annual report, with a statement indicating the location of and extent to which the filed reports contain the information that satisfies the requirements of NAC 704.270 to 704.273, inclusive.

704.273 Access of Commission to certain information; maintenance of confidentiality. (NRS 703.025, 704.210) The Commission must be provided access to the documents, data, and records of affiliates or subsidiaries of a public utility for the purpose of verifying the information supplied pursuant to the provisions of NAC 704.270 to 704.2725,

inclusive. Pursuant to NRS 703.196, the Commission will maintain the confidentiality of the documents, data, and records upon request.