

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

LCB File No. R178-12

Effective February 26, 2014

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

AUTHORITY: §§1 and 2, NRS 703.025, 704.095, 704.210 and 704.663.

A REGULATION relating to water and sewer utilities; authorizing certain water and sewer utilities to request the approval of the Public Utilities Commission of Nevada for a rate surcharge to provide cash reserves to fund certain repairs and maintenance of water supply and wastewater treatment systems and the replacement of certain capital assets; establishing requirements to apply for such a rate surcharge; providing for the deposit and withdrawal of certain rate surcharges by water and sewer utilities; and providing other matters properly relating thereto.

Section 1. NAC 704.600 is hereby amended to read as follows:

704.600 1. When requested by a utility, the Commission will consider a rate surcharge to

~~finance~~ :

(a) *Finance* large additions or improvements to a plant ~~+~~ ; or

(b) *Provide a cash reserve for the purposes of:*

(1) *Funding significant, unanticipated repairs to, or maintenance of, a water supply or wastewater treatment system; or*

(2) *Funding significant but nonspecific capital improvements or replacements of capital assets.*

2. In determining whether a surcharge should be authorized, the Commission will consider:

(a) The ~~need for~~ *need for* the additions , ~~or~~ improvements ~~+~~ , *cash reserves, repairs, maintenance or replacements;*

(b) The size, in terms of capital requirements, of the additions, ~~or~~ improvements ~~to~~, *cash reserves, repairs, maintenance or replacements*; and

(c) The availability of other methods of financing.

3. The Commission may make such amendments, restrictions or modifications in approving the surcharge as the public interest may require. For the purposes of rate making, all ~~facilities of the utility~~ *additions, improvements, cash reserves, repairs, maintenance or replacements* that are funded by a surcharge will be considered to be a contribution in aid of construction. A rate surcharge will not be authorized unless the utility acknowledges in a written statement to the Commission that the value of the additions, ~~or~~ improvements ~~to a facility~~, *cash reserves, repairs, maintenance or replacements* will not be considered in determining the fair market value of the utility's entire facility.

4. Any money collected by a ~~public~~ utility ~~subject to the provisions of NAC 704.570 to 704.628, inclusive,~~ pursuant to a rate surcharge authorized by the Commission must be deposited in an account separate from the utility's other money. ~~The account must be established as a trust account in a recognized bank, brokerage house, escrow or title company. The trust document must be reviewed and approved by the Commission before the trust document may be executed.~~ The money ~~held in trust~~ must be deposited in an interest-bearing account ~~and must be~~ *that is* federally insured ~~to~~ *or in any other type of account approved by the Commission*. A copy of all statements identifying all deposits and withdrawals must be provided to the Regulatory Operations Staff upon receipt of the statements by the utility.

5. ~~The procedure for~~ *All* withdrawals from the account must be authorized by the Commission.

6. Not later than March 31 of each year, the Regulatory Operations Staff of the Commission shall present at a meeting of the Commission a report that provides, for each utility authorized by the Commission to collect a rate surcharge pursuant to this section, an accounting for the immediately preceding calendar year of the deposits and withdrawals from the separate account in which the rate surcharge is deposited.

Sec. 2. NAC 704.605 is hereby amended to read as follows:

704.605 *1.* An applicant for a rate surcharge must submit a written plan for the replacement or expansion of the plant and its financing *, or for the provision of cash reserves, whichever is applicable,* to the Commission for its consideration. The plan must be in sufficient detail to enable the Commission to determine the need ~~{and necessity}~~ for the proposed additions or improvements ~~{and}~~ *or for the cash reserves, whichever is applicable.*

2. A written plan submitted by an applicant for a rate surcharge to finance large additions or improvements to a plant pursuant to paragraph (a) of subsection 1 of NAC 704.600 must include, but is not limited to, the following information and documents:

~~{1.}~~ *(a)* A brief description of the proposed additions or improvements, together with the estimated cost and the source of that estimate, and an estimate of the time needed for construction and the estimated date of commencement and date of completion of the construction;

~~{2.}~~ *(b)* A list of the proposed projects in order of priority, which contains the reasons for the priorities;

~~{3.}~~ *(c)* The ~~{necessity of}~~ *need for* the proposed additions or improvements;

~~{4.}~~ *(d)* The size, in terms of capital requirements, of the additions or improvements;

~~15.1~~ (e) Any letter of credit, loan commitment or other evidence that funding is or is not available to the applicant; and

~~16.1~~ (f) The availability of other methods of financing.

3. A written plan submitted by an applicant for a rate surcharge to provide a cash reserve for the purposes set forth in paragraph (b) of subsection 1 of NAC 704.600 must include, but is not limited to, the following information and documentation:

(a) Documentation that the applicant does not exceed the customer and gross sales limitations set forth in NRS 704.095;

(b) Documentation that the applicant does not have access to other sources of funding at reasonable terms and conditions, other than the cash reserve;

(c) The appropriate amount in the cash reserve account;

(d) The calculation of the rate surcharge necessary to provide the appropriate amount in the cash reserve account; and

(e) The manner in which money will be refunded to ratepayers if the cash reserve account exceeds the appropriate amount.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS
AS REQUIRED BY NRS 233B.066
LCB FILE R178-12 (DOCKET NO. 10-12009)**

The following informational statement is submitted for adopted amendments to Nevada Administrative Code Chapters 703 and 704.

1. A clear and concise explanation of the need for the adopted regulation:

The regulations clarify that the ability to request implementation of a surcharge to expand or improve a plant is available to all water and/or sewer utilities in accordance with Nevada Administrative Code 703.22075, and allow such utilities to request a surcharge for non-specific capital improvements or replacement of capital assets, or unanticipated repairs or maintenance to a water or wastewater system. The regulations also provide more flexibility in the collection and accounting of the proceeds generated by a rate surcharge.

2. Description of how public comment was solicited, a summary of public response, and an 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 hearing were sent by U.S. mail and email to persons who were known to have an interest in the subjects of noticing and interventions. These documents were also made available at the website of the Public Utilities Commission of Nevada (“PUCN”), <http://puc.nv.gov>, mailed to all county libraries in Nevada, published in the following newspapers:

Ely Times
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
9075 West Diablo Drive, Suite 250
Las Vegas, Nevada 89148

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

Gold Country Water Company, Inc., Pahrump Utility Company, Inc., Utilities, Inc., and the PUCN's Regulatory Operations Staff filed comments, participated in workshops and advocated changes to the regulations to better clarify that the ability to request implementation of a surcharge to expand or improve a plant is available to all water and/or sewer utilities, and allow them to request a surcharge for non-specific capital improvements or replacement of capital assets, or unanticipated repairs or maintenance to a water or wastewater system. These interested persons also advocated changes to the regulations to provide more flexibility in the collection and accounting of the proceeds generated by a rate surcharge.

Copies of the transcripts of the proceedings are available for review at the offices of the PUCN, 1150 East William Street, Carson City, Nevada 89701 and 9075 West Diablo Drive, Suite 250, Las Vegas, Nevada 89148.

3. The number of persons who:

- (a) Attended each hearing:** November 15, 2013 – 1
- (b) Testified at each hearing:** November 15, 2013 – 0
- (c) Submitted to the agency written comments:** 4

4. For each person identified in subparagraphs (b) and (c) of paragraph 3, the following information if provided to the agency conducting the hearing:

- (a) Name;**
- (b) Telephone number;**
- (c) Business address;**
- (d) Business telephone number;**
- (e) Electronic mail address; and**
- (f) Name of entity or organization represented**

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5. **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 #2.

6. **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 November 27, 2013. Changes were not made to the proposed regulations.

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

(a) Both adverse and beneficial effects:

The regulations could potentially increase, incrementally, the water bills of utility customers, but the potential increase will be offset by the potential avoidance of future large rate increases, thus furthering the administrative goals of gradualism and avoidance of rate shock. Furthermore, the regulations will not impose a direct and significant economic burden on small businesses or directly restrict the formation, operation or expansion of a small business.

(b) Both immediate and long-term effects:

See Item # 7(a).

8. **The estimated cost to the agency for enforcement of the proposed regulation.**

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

9. **A description of any regulations of other state or governmental 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.

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

N/A

11. 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