

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

LCB File No. R058-13

Effective December 23, 2013

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

AUTHORITY: §1, NRS 703.025, 704.210 and 704.785.

A REGULATION relating to energy; revising the process of accounting for and recovery of revenues lost due to programs for energy efficiency and conservation; and providing other matters properly relating thereto.

Section 1. NAC 704.9524 is hereby amended to read as follows:

704.9524 1. An electric utility may recover an amount based on the measurable and verifiable effects on the revenue of the electric utility which are caused or created by the implementation of programs for energy efficiency and conservation described in the demand side plan of the electric utility and approved by the Commission pursuant to NAC 704.9494 as part of the action plan of the electric utility.

2. To recover an amount pursuant to subsection 1, an electric utility must:

(a) Establish and maintain a separate subsidiary record of the subaccounts of FERC Account No. 182.3 (Other Regulatory Assets) for the tracking, calculation and recovery of the lost revenue associated with the programs for energy efficiency and conservation that are described in the demand side plan of the electric utility and approved by the Commission pursuant to NAC 704.9494 as part of the action plan of the electric utility.

(b) At the time the utility files an annual deferred energy accounting adjustment application pursuant to subsection 3 of NRS 704.187 ~~to apply~~:

(1) Apply to the Commission to establish the following period-specific rates:

~~1~~ *(I)* A prospective base lost revenue rate which is determined by allocating lost revenue to each customer class in the manner approved by the Commission in the most recent general rate case of the electric utility. The prospective base lost revenue rate for a customer class is an amount equal to the lost revenue allocated to the customer class pursuant to this ~~subparagraph~~ *sub-subparagraph* divided by the projected kilowatt hour sales for that class for the relevant period.

~~2~~ *(II)* A deferred lost revenue rate to clear the period-specific balance over 12 months. The deferred lost revenue rate is an amount equal to the period-specific balance in the subaccount of FERC Account No. 182.3 for lost revenue associated with programs for energy efficiency and conservation for each class of customers divided by the applicable test period kilowatt hour sales.

(2) File a statement that reports the Nevada jurisdictional earned rate of return for each month of the test period for the electric utility. The Nevada jurisdictional earned rate of return must be calculated for each month of the test period on a 12-month average rate base. The statement must be accompanied by all subsidiary schedules, and any adjustments made thereto, necessary to support the calculations.

3. If the Nevada jurisdictional earned rate of return for the last month of the test period reported for an electric utility pursuant to subparagraph (2) of paragraph (b) of subsection 2 exceeds the rate of return last authorized by the Commission to set rates for the utility, the utility must, at the time the utility files the annual deferred energy accounting adjustment application pursuant to subsection 3 of NRS 704.187:

(a) File a statement that reports calculations of:

(1) The amount of revenue which caused the utility to exceed the rate of return last authorized by the Commission;

(2) A lost revenue adjustment, which must be recorded in a subaccount of FERC Account No. 254; and

(3) The carrying charges at a monthly rate of 1/12 of the authorized overall rate of return on the lost revenue adjustment calculated in subparagraph (2).

(b) Establish a rate of credits for lost revenue adjustments attributable to each class of service and which are identified pursuant to the information required to be maintained by subparagraph (4) of paragraph (a) of subsection 5. Any balance which remains in the subaccount of FERC Account No. 254 at the end of the amortization period must be transferred to the lost revenue subaccount of FERC Account No. 182.3 for the current period.

4. The sum of the lost revenue adjustment calculated in subparagraph (2) of paragraph (a) of subsection 3 and any adjustments for carrying charges made to the lost revenue subaccount of FERC Account No. 254 must not exceed the amount calculated pursuant to subparagraph (1) of paragraph (a) of subsection 3.

5. An electric utility shall account for period-specific lost revenue associated with a program for energy efficiency and conservation and revenue received from the period-specific base lost revenue rate in the following manner:

(a) On a monthly basis, the electric utility shall:

(1) Calculate the deferred lost revenue;

(2) Calculate the recorded revenue attributable to the base lost revenue rate; ~~and~~

(3) Record in the subaccount of FERC Account No. 182.3 the difference between estimated lost revenues and recorded revenue attributable to the base lost revenue rate ~~+~~

; and

(4) Maintain sufficiently detailed information to identify the estimated lost revenues attributable to each class of service.

(b) The electric utility shall apply a carrying charge at the rate of 1/12 of the authorized overall rate of return to the unamortized balance in the lost revenue subaccount of FERC Account No. 182.3. †

~~—4.†~~ *If, in any month, the balance in the lost revenue subaccount of FERC Account No. 182.3 is a debit, an adjustment amount must be calculated in an amount equal to the amount which exceeds the utility's last authorized rate of return that was used to set rates for the utility or any remainder after the rate of return has been applied to the carrying charge calculation for deferred energy pursuant to NAC 704.150.*

6. An electric utility shall:

(a) Perform by program by month by class the monitoring and verification of actual kilowatt hour and demand savings required by NAC 704.9522;

(b) Include with the demand side plan submitted by the utility pursuant to NAC 704.934 the information described in paragraph (a) for review and approval by the Commission; and

(c) Make any adjustments to the balancing account for lost revenue, including, without limitation, carrying charges, as are necessary to reflect the results of the review by the Commission of the information submitted pursuant to paragraph (b).

7. *For the purposes of this section, "lost revenue adjustment" means the lesser of:*

(a) The amount of revenue calculated as required by subparagraph (1) of paragraph (a) of subsection 3; or

(b) The estimated lost revenue recorded for the test period.

NOTICE OF ADOPTION OF REGULATIONS

The Public Utilities Commission of Nevada adopted permanent regulations assigned LCB File No. R058-13 (Docket No. 13-04014) which pertain to chapters 703 and 704 of the Nevada Administrative Code on November 8, 2013. A copy of the permanent regulations as adopted is attached.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY NRS 233B.066 LCB FILE R058-13 (DOCKET NO. 13-04014)

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 regulation requires that an application filed for lost sales compensation pursuant to Nevada Revised Statutes (“NRS”) 704.785 be required to present evidence, as part of the application, regarding the electric utility’s achieved rate of return.

2. A 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:

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
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

The Attorney General's Bureau of Consumer Protection, Caesars Entertainment Operating Company, Inc, Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy, and the Regulatory Operations Staff all advocated changes that would limit the amount of recovery of lost revenues so that such revenues do not contribute to an electric utility earning more than the rate of return authorized by the Commission in the most recently completed rate case of the electric utility, consistent with Nevada Revised Statutes 704.785(3)(b).

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: October 23, 2013 - 4
 - (b) Testified at each hearing: October 23, 2013 - 4
 - (c) Submitted to the agency written comments: 4

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

Louise Uttinger
1150 E. Carson St.
Carson City, NV 89701
775-684-6124
luttinger@puc.nv.gov
PUCN Staff Counsel

Michael Saunders
10791 W. Twain Ave., Suite 10
Las Vegas, NV 89135
702-486-3793
bcpserv@ag.nv.gov
Attorney General's Bureau of Consumer Protection

Shawn Elicegui
6100 Neil Road
PO Box 10100
Reno, NV 89520
702-402-5697
selicegui@nvenergy.com
NV Energy

Kathleen Drakulich
100 W. Liberty St.
Reno, NV 89501
775-788-2000
kdrakulich@mcdonaldcarano.com
Caesar's Entertainment Operating Company, Inc.

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 #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 November 8, 2013. Changes were made to the proposed regulations.

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; and
- (b) Both immediate and long-term effects.

Both adverse and beneficial effects:

The proposed regulation will not have an immediate adverse effect. Any lost revenue adjustments and accompanying proposed rate reductions will be filed annually, and it is anticipated that any credit rates to return lost revenues will be effective on October 1 of the following year. Since the utility is the only business directly affected by the regulation, small businesses will not be adversely affected. The proposed regulation puts limits on certain amounts the utility may recover from its customers; therefore there are no immediate adverse effects of the regulation on the public. Because the proposed regulation puts limits on certain amounts the utility may recover from its customers, some of whom are small businesses, the proposed regulation is not likely to impose a direct and significant economic burden or directly restrict the formation, operation, or expansion of a small business.

There are no immediate beneficial effects of the regulation on the utility. The proposed regulation imposes additional filing requirements and potential lost revenues adjustments if the utility achieves earnings in excess of the rate of return authorized by the PUCN in the utility's last general rate case. The proposed regulation also serves to increase the administrative and

regulatory oversight and can only reduce the utility's revenues and net income. The proposed regulation will not provide an immediate beneficial effect on other businesses. Any adjustments and accompanying proposed rate reductions will be filed annually, and it is anticipated any credit rates to return lost revenues will be on October 1 of the following year. The proposed regulation will not provide an immediate beneficial effect on the public generally. Any adjustments and accompanying proposed rate reductions will be filed annually, and it is anticipated any credit rates to return lost revenues will be on October 1 of the following year, with the earliest potential adjustment occurring on October 1, 2014.

The proposed regulation will have a long-term adverse effect on the utility in three areas. First, there will be additional recordkeeping and regulatory overhead in the internal administration of the regulation. Second, the utility will be required to adjust previously recorded revenues, and income, to comply with the proposed regulation if the utility is achieving earnings in excess of the authorized rate of return. Third, if the utility continues to achieve earnings in excess of the authorized rate of return, there could be a rate see-saw effect from the implementation of the regulations where in one year, there is a credit adjustment, but none the following year. The proposed regulation has no long term effect on other businesses. However, all businesses, including small businesses, may experience some rate fluctuation as it relates to the lost revenues component of the energy efficiency and conservation program rates. Since the regulation puts limits on certain amounts the utility may recover from its customers, there are no long-term adverse effects of the regulation on the public. Since the regulation puts limits on certain amounts the utility may recover from its customers, there are no long-term adverse effects of the regulation on the formation, operation, or expansion of small businesses.

There are no specific long-term beneficial effects of the proposed regulation on the utility. However, the proposed regulation may provide some limited mitigation to the potential adverse public sentiment when the utility is achieving in excess of its authorized rate of return. With respect to other businesses, the regulation will serve as a check valve when the utility is achieving in excess of its authorized rate of return. Since the regulation puts limits on certain amounts the utility may recover from its customers, such limits are a long-term beneficial effect of the regulation on the public.

Both immediate and long-term effects:

See Item # 5(a).

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

There are some ongoing costs to the PUCN to enforce or administer the regulation. Start-up costs include developing the regulation and conducting workshops and hearings. Ongoing costs include review by the PUCN and Staff of the additional information and calculations that must be made per the regulation. The PUCN may experience an increase in Staff time to review and evaluate the information filed as required by the proposed regulation. These increases, if any, may be absorbed by existing personnel and budgets.

7. A description of any regulations 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 PUCN has determined that the proposed regulation does 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 PUCN adopted the findings of 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.