

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

**LCB File No. R072-13**

Effective December 23, 2013

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

AUTHORITY: §§1 and 2, NRS 703.025 and 704.210; §§3-14, NRS 703.025, 704.210 and section 20 of Assembly Bill No. 239, chapter 504, Statutes of Nevada 2013, at page 3210 (NRS 704.7881); §15, NRS 703.025, 704.210, 704.741 and section 20 of Assembly Bill No. 239, chapter 504, Statutes of Nevada 2013, at page 3210 (NRS 704.7881).

A REGULATION relating to energy; revising provisions relating to applications for the construction of a utility facility under certain circumstances; establishing provisions for participation in the Economic Development Electric Rate Rider Program; revising the definition of “deferred energy balance”; requiring additional entries in deferred energy accounts; and providing other matters properly relating thereto.

**Section 1.** NAC 703.421 is hereby amended to read as follows:

703.421 ~~Am~~ *A notice of an application for approval by the appropriate federal agency to construct a utility facility which is* filed with the Commission pursuant to paragraph (a) of subsection 2 of NRS 704.870 ~~for a permit to construct a utility facility where a federal agency is required to conduct an environmental analysis of the proposed utility facility~~, *as amended by section 23 of Assembly Bill No. 239, chapter 504, Statutes of Nevada 2013, at page 3211*, must contain the following information : ~~in the order listed:~~

1. *The name, address and telephone number of the person who filed the application with the appropriate federal agency.*
2. *The date on which the application was filed with the appropriate federal agency.*
3. A general description of the location of the proposed utility facility . ~~including:~~

- ~~—(a) A regional map that identifies the location of the proposed utility facility;~~
  - ~~—(b) Any alternative locations for the proposed utility facility; and~~
  - ~~—(c) The reasons why the location identified in paragraph (a) is best suited for the proposed utility facility.~~
- ~~—2.] 4. A general description of the proposed utility facility . [as required by subsection 2 of NRS 704.870, including:~~
- ~~—(a) The size and nature of the proposed utility facility; and~~
  - ~~—(b) The natural resources that will be used during the construction and operation of the proposed utility facility.~~
- ~~—3.—A summary of any studies which the applicant anticipates will be made of the environmental impact of the proposed utility facility as required by subsection 2 of NRS 704.870, including a copy of all corresponding studies filed with appropriate federal agencies.~~
- ~~—4.—A copy of the public notice of the application and proof of the publication of the public notice, as required by subsection 4 of NRS 704.870.]~~

5. Proof that a copy of the ~~[application]~~ *notice* has been submitted to the Nevada State Clearinghouse within the *State* Department of ~~[Administration to enable agency review and comment.]~~ *Conservation and Natural Resources*.

**Sec. 2.** NAC 703.423 is hereby amended to read as follows:

703.423 An application filed with the Commission pursuant to subsection 1 of NRS 704.870 for a permit to construct a utility facility where no federal agency is required to conduct an environmental analysis of the proposed utility facility, or an ~~[amended]~~ application filed with the Commission pursuant to paragraph (b) of subsection 2 of NRS 704.870 , *as amended by section 23 of Assembly Bill No. 239, chapter 504, Statutes of Nevada 2013, at page 3211*, for a permit

to construct a utility facility where a federal agency has issued *either* its final environmental assessment or *final* environmental impact statement , *but not the record of decision or similar document*, relating to the construction of the proposed utility facility, must contain the following information in the order listed:

1. A description of the location of the proposed utility facility as required by subsection 1 of NRS 704.870, including:

(a) A general description of the location of the proposed utility facility, including a regional map that identifies the location of the proposed utility facility;

(b) A legal description of the site of the proposed utility facility, with the exception of electric lines, gas transmission lines, and water and wastewater lines, for which only a detailed description of the site is required; and

(c) Appropriately scaled site plan drawings of the proposed utility facility, vicinity maps and routing maps.

2. A description of the proposed utility facility, including:

(a) The size and nature of the proposed utility facility;

(b) The natural resources that will be used during the construction and operation of the proposed utility facility;

(c) Layout diagrams of the proposed utility facility and its associated equipment;

(d) Scaled diagrams of the structures at the proposed utility facility; and

(e) A statement concerning whether the proposed utility facility is an electric generating plant or the associated facilities of an electric generating plant that uses renewable energy as its primary source of energy to generate electricity.

3. A copy and summary of any studies which have been made of the environmental impact of the proposed utility facility as required by subsection 1 of NRS 704.870.

4. A description of any reasonable alternate locations for the proposed utility facility, a description of the comparative merits or detriments of each location submitted, and a statement of the reasons why the location is best suited for the proposed utility facility, as required by subsection 1 of NRS 704.870.

5. A copy of the public notice of the application ~~for amended application~~ and proof of the publication of the public notice, as required by subsection 4 of NRS 704.870 ~~+~~, *as amended by section 23 of Assembly Bill No. 239, chapter 504, Statutes of Nevada 2013, at page 3211.*

6. Proof that a copy of the application ~~for amended application~~ has been submitted to the Nevada State Clearinghouse within the *State* Department of ~~Administration to enable agency review and comment.~~ *Conservation and Natural Resources.*

7. An explanation of the nature of the probable effect on the environment, including:

(a) A reference to any studies described in subsection 3, if applicable; and

(b) An environmental statement that includes:

(1) The name, qualifications, professions and contact information of each person with primary responsibility for the preparation of the environmental statement;

(2) The name, qualifications, professions and contact information of each person who has provided comments or input in the preparation of the environmental statement;

(3) A bibliography of materials used in the preparation of the environmental statement;

and

(4) A description of:

(I) The environmental characteristics of the project area existing at the time the application ~~for amended application~~ is filed with the Commission;

(II) The environmental impacts that the construction and operation of the proposed utility facility will have on the project area before mitigation; and

(III) The environmental impacts that the construction and operation of the proposed utility facility will have on the project area after mitigation.

↪ The data and analyses in the descriptions must be commensurate with the degree of the anticipated impacts.

8. Unless, pursuant to paragraph (b) of subsection 1 of NRS 704.890, the proposed utility facility is exempt from the requirement that the Commission find and determine the extent to which the proposed utility facility is needed to ensure reliable utility service to customers in this State, an explanation of the extent to which the proposed utility facility is needed to ensure reliable utility service to customers in this State, including:

(a) If the proposed utility facility was approved in a resource plan or an amendment to a resource plan, a reference to the previous approval by the Commission; or

(b) If the proposed utility facility was not approved in a resource plan or an amendment to a resource plan, a description of the extent to which the proposed utility facility will:

- (1) Provide utility service to customers in this State;
- (2) Enhance the reliability of utility service in this State; and
- (3) Achieve interstate benefits by the proposed construction or modification of transmission facilities in this State, if applicable.

9. An explanation of how the need for the proposed utility facility as described in subsection 8 balances any adverse effects on the environment as described in subsection 7.

10. An explanation of how the proposed utility facility represents the minimum adverse effect on the environment, including:

- (a) The state of available technology;
- (b) The nature of various alternatives; and
- (c) The economics of various alternatives.

11. An explanation of how the location of the proposed utility facility conforms to applicable state and local laws and regulations, including a list of all permits, licenses and approvals required by federal, state and local statutes, regulations and ordinances. The explanation must include a list that indicates:

- (a) All permits, licenses and approvals the applicant has obtained, including copies thereof; and
- (b) All permits, licenses and approvals the applicant is in the process of obtaining to commence construction of the proposed utility facility. The applicant must provide an estimated timeline for obtaining these permits, licenses and approvals.

12. An explanation of how the proposed utility facility will serve the public interest, including:

- (a) The economic benefits that the proposed utility facility will bring to the applicant and this State;
- (b) The nature of the probable effect on the environment in this State if the proposed utility facility is constructed;
- (c) The nature of the probable effect on the public health, safety and welfare of the residents of this State if the proposed utility facility is constructed; and

(d) The interstate benefits expected to be achieved by the proposed electric transmission facility in this State, if applicable.

**Sec. 3.** Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 4 to 12, inclusive, of this regulation.

**Sec. 4.** *As used in sections 4 to 12, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 5 to 8, inclusive, of this regulation have the meanings ascribed to them in those sections.*

**Sec. 5.** *“Base tariff energy rate” has the meaning ascribed to it in NAC 704.032.*

**Sec. 6.** *“Electric utility” has the meaning ascribed to it in NRS 704.187.*

**Sec. 7.** *“Participant” has the meaning ascribed to it in section 12 of Assembly Bill No. 239, chapter 504, Statutes of Nevada 2013, at page 3207 (NRS 704.7873).*

**Sec. 8.** *“Program” means the Economic Development Electric Rate Rider Program established pursuant to section 14 of Assembly Bill No. 239, chapter 504, Statutes of Nevada 2013, at page 3207 (NRS 704.7875).*

**Sec. 9.** *The discounted electric rates that an electric utility shall charge pursuant to the Program must be:*

*1. In the first year of a contract entered into pursuant to section 16 of Assembly Bill No. 239, chapter 504, Statutes of Nevada 2013, at page 3209 (NRS 704.7877), a reduction of 30 percent in the base tariff energy rate.*

*2. In the second year of a contract entered into pursuant to section 16 of Assembly Bill No. 239, chapter 504, Statutes of Nevada 2013, at page 3209 (NRS 704.7877), a reduction of 20 percent in the base tariff energy rate.*

*3. In the third year of a contract entered into pursuant to section 16 of Assembly Bill No. 239, chapter 504, Statutes of Nevada 2013, at page 3209 (NRS 704.7877), a reduction of 20 percent in the base tariff energy rate.*

*4. In the fourth year of a contract entered into pursuant to section 16 of Assembly Bill No. 239, chapter 504, Statutes of Nevada 2013, at page 3209 (NRS 704.7877), a reduction of 10 percent in the base tariff energy rate.*

*Sec. 10. Each electric utility shall set aside 25 megawatts of capacity for allocation to new customers pursuant to the Program. If an electric utility enters into one or more contracts with an applicant for the Program for the full allocation of 25 megawatts of capacity set aside by the electric utility pursuant to this section, any unused capacity allocated to another electric utility may be reallocated among the electric utilities by the Commission to maximize participation in the Program.*

*Sec. 11. 1. An electric utility that provides discounted electric rates pursuant to the Program shall:*

*(a) Establish a tariff pursuant to which a participant will be charged the discounted electric rates set forth in section 9 of this regulation. A tariff established pursuant to this paragraph must include a rate component which, when combined with the base tariff energy rate, will result in the required reduction in the base tariff energy rate. The inclusion of a rate component pursuant to this paragraph is not required to be listed separately in the utility's tariff.*

*(b) Recover the amount of any discount provided to a participant in the Program by recording the amount in the deferred energy balance.*



*(c) Distribute as payment to each of the utility's customers any amount recovered by order of the Commission pursuant to section 18 of Assembly Bill No. 239, chapter 504, Statutes of Nevada 2013, at page 3209 (NRS 704.7879), and record the amount in the deferred energy balance.*

*2. As used in this section, "deferred energy balance" has the meaning ascribed to it in NAC 704.045.*

**Sec. 12.** *Each electric utility shall, on or before March 1 of each year commencing March 1, 2015, file with the Commission a written report concerning the Program. The report must include information concerning:*

*1. The electrical load in the immediately preceding calendar year of each participant with whom the utility has entered into a contract pursuant to the Program;*

*2. The annual load factor in the immediately preceding calendar year of each participant with whom the utility has entered into a contract pursuant to the Program;*

*3. The date on which each participant with whom the utility has entered into a contract pursuant to the Program began receiving electric service from the utility; and*

*4. Any other relevant information that the Commission deems necessary.*

**Sec. 13.** NAC 704.045 is hereby amended to read as follows:

704.045 "Deferred energy balance" means the amount contained in FERC Account Nos. 182.3 and 191, and represents:

1. The difference between revenue received from the base tariff energy rate and the jurisdictional allocation of the amounts contained in the appropriate accounts listed in paragraphs (a), (b), (c) and (e) of subsection 2 of NAC 704.120;

2. The amount resulting from the application of the deferred energy accounting adjustment to sales, as contained in the appropriate revenue accounts;
3. Revenues from interruptible irrigation sales;
4. The Nevada jurisdictional portion of refunds from suppliers, including any interest earned thereon; ~~and~~
5. Carrying charges as described in NAC 704.150 ~~H~~;
6. *The amount of any provided discount resulting from participation in the Economic Development Electric Rate Rider Program established pursuant to section 14 of Assembly Bill No. 239, chapter 504, Statutes of Nevada 2013, at page 3207 (NRS 704.7875); and*
7. *Any amount recovered by order of the Commission pursuant to section 18 of Assembly Bill No. 239, chapter 504, Statutes of Nevada 2013, at page 3209 (NRS 704.7879).*

**Sec. 14.** NAC 704.101 is hereby amended to read as follows:

704.101 Each electric utility and gas utility using deferred energy accounting shall maintain a deferred energy account. Entries must be made to the deferred energy account at the end of each month as follows:

1. For electric operations:
  - (a) A debit entry or credit entry, if negative, to a subaccount of FERC Account No. 182.3, if the cumulative month-end balance is a debit, or a subaccount of FERC Account No. 254, if the cumulative month-end balance is a credit, equal to the cost of both fuel for electric generation and purchased power, reduced for revenues from off-system sales, distributed to applicable jurisdictional sales by the ratio of those jurisdictional sales to the total sales of energy, exclusive of off-system sales, less the amount of revenue derived by applying the base tariff energy rate to that month's applicable jurisdictional sales exclusive of interruptible irrigation sales.

(b) A separate credit entry or debit entry, if negative, equal to the amount of revenue derived by applying the appropriate deferred energy accounting adjustment to that month's applicable jurisdictional sales, exclusive of interruptible irrigation sales.

(c) A credit entry equal to the amount of revenue from interruptible irrigation sales.

(d) A credit entry equal to the jurisdictional amount of any cash refund, including interest if applicable, received from suppliers of fuel or purchased power.

(e) A separate debit entry or credit entry, if negative, equal to the product of the ending balance multiplied by one-twelfth of the authorized rate of return as provided in NAC 704.150.

*(f) A debit entry equal to the amount of any provided discount resulting from participation in the Economic Development Electric Rate Rider Program established pursuant to section 14 of Assembly Bill No. 239, chapter 504, Statutes of Nevada 2013, at page 3207 (NRS 704.7875).*

*(g) A credit entry equal to any amount recovered by order of the Commission pursuant to section 18 of Assembly Bill No. 239, chapter 504, Statutes of Nevada 2013, at page 3209 (NRS 704.7879).*

2. For gas operations:

(a) A debit entry or credit entry to FERC Account No. 191, if negative, equal to the cost of purchased gas for the month distributed to applicable jurisdictional sales by the ratio of those jurisdictional sales to total sales, less the amount of the revenue derived by applying the base tariff energy rate to that month's applicable jurisdictional sales.

(b) A credit entry or debit entry, if negative, equal to the amount of revenue derived by applying the appropriate deferred energy accounting adjustment to that month's applicable jurisdictional sales.

(c) A credit entry equal to the jurisdictional amount of any cash refund, including interest if applicable, received from suppliers of purchased gas.

(d) A debit entry or credit entry, if negative, equal to the product of the ending balance multiplied by one-twelfth of the authorized rate of return as provided in NAC 704.150.

**Sec. 15.** NAC 704.9503 is hereby amended to read as follows:

704.9503 1. ~~1A~~ *Except as otherwise provided in section 21.5 of Assembly Bill No. 239, chapter 504, Statutes of Nevada 2013, at page 3210 (NRS 704.871), a utility shall continually monitor its action plan and shall amend the plan before it submits its next action plan if any of the following circumstances exist:*

(a) The utility anticipates submitting an application for a permit to construct a utility facility pursuant to NRS 704.820 to 704.900, inclusive, which was not previously approved as part of the action plan.

(b) The utility makes a commitment for the acquisition or construction of a facility that was not previously approved as part of the action plan.

(c) The utility makes a commitment for a long-term purchased power obligation which was not previously approved as part of the action plan.

(d) The utility is unable to place a resource in service or secure a resource in accordance with the schedule for the resource that is included in the action plan approved by the Commission and the modified schedule results in a significant deviation from the planned reserve margin for any period in the 3-year action plan.

(e) The utility makes a commitment for an option that was not available at the time the action plan was approved.

(f) The basic data used in the formation of the plan requires significant modification that affects the choice of a resource which was approved as part of the action plan.

2. The conditions under which an amendment is sought must be specifically set forth in the application for amendment.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS**  
**NRS 233B.066 Informational Statement**  
**LCB File No. R072-13**  
**PUCN Docket No. 13-06022**

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

The regulation revises existing regulations and promulgates new regulations as necessitated by the provisions of Assembly Bill (“AB”) 239 of the 77<sup>th</sup> Session of the Nevada Legislature. Specifically, the regulation revises the Commission’s regulations regarding Utility Environmental Protection Act (“UEPA”) applications and Integrated Resource Planning action plan amendments in conformance with AB 239 and implements the Economic Development Electric Rate Rider Program also created by AB 239.

**2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.**

(a) 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

(b) The Attorney General’s Bureau of Consumer Protection (“BCP”), the Regulatory Operations Staff of the Commission (“Staff”), Sierra Pacific Power Company d/b/a NV Energy (“SPPC”) and Nevada Power Company d/b/a NV Energy (“NPC” together with

SPPC, “NVE”) jointly, and Southwest Gas Corporation (“SWG”) filed comments in the matter. The participants generally provided comment regarding the provisions of AB 239 that required promulgation of new regulations or amendment of existing regulations to implement. The participants generally agreed on all topics.

(c) 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:** 4 (In addition, the Governor’s Office of Economic Development co-versed over the portion of the hearing regarding the Economic Development Electric Rate Rider Program)

**(b) Testified at each hearing:** 4

**(c) Submitted written comments:** 2

**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:**

**(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 of 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(c).

**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.**

A definitional section was added to the regulation at the suggestion of the Regulatory Operations Staff of the PUCN.

**7. The estimated economic effect of the regulation on the business which it is to regulate and on the public.**

**(a) Estimated economic effect on the businesses which they are to regulate.**

The proposed regulation could cause the affected electric utilities to conduct additional recordkeeping and make accounting entries associated with the Economic Development Electric Rate Rider Program. The costs of these additional requirements, including the possibility of additional litigation of deferred energy filings, may be absorbed by the utilities as part of their ongoing regulatory and lost revenues processes and should not directly affect ratepayers.

**(b) Estimated economic effect on the public.**

The proposed regulation could minimally increase the Deferred Energy Accounting Adjustment ("DEAA") rates of those electric utility customers not participating in the Economic Development Electric Rate Rider Program for the life of the program.

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

There is no expected additional cost to the agency for enforcement of the regulation.

**9. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or**



**overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The regulation does 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