

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

LCB File No. R131-13

Docket No. 13-06023

November 13, 2013

Modify Resource Planning Regulations NAC 704.9005 through 704.9525.

EXPLANATION – Matter in *italics* is new material introduced to the Nevada Administrative Code.

AUTHORITY: Nevada Revised Statutes XXXX; Senate Bill 123 of the 77th Session of the Nevada Legislature

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections ___ to ___, inclusive, of this regulation.

Sec. 2. As used in sections ___ to ___, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections ___ to ___, inclusive, of this regulation, have the meanings ascribed to them in those sections.

Sec. 3. *“Coal-fired generating capacity” refers to the planning capacity of a coal-fired generating plant as depicted in the loads and resources table that was included in the most recent resource plan filed by the electric utility pursuant to NRS 704.741 and accepted by the Commission before June 11, 2013, pursuant to NRS 704.751.*

Sec. 4. *“Coal-fired electric generating plant” or “coal-fired generating unit” has the meaning ascribed to it in NRS 704.7312.*

Sec. 5. *“Electric utility” has the meaning ascribed to it in NRS 704.7313.*

Sec. 6. *“Eliminate” means to divest an interest in a coal-fired electric generating plant such that the coal-fired electric generating plant is no longer being relied upon by the electric utility to provide service to its customers and the cost of the coal-fired electric generating plant is no longer included in the electric utility’s rates, except as otherwise set forth in paragraph (e) of subsection 2 of NRS 704.7316 and approved to be included in rates in an application submitted to the Commission pursuant to NRS 704.110 subsequent to the elimination of the coal-fired electric generating plant.*

Sec. 7. *“Emissions reduction and capacity replacement plan” has the meaning ascribed to it in NRS 704.7314.*

Sec. 8 *“Emissions reduction and capacity replacement action plan” means a detailed specification of actions a utility intends to undertake to meet the requirements of an emissions reduction and capacity replacement plan during the 3 years immediately following the year in which its resource plan is filed except for the initial emissions reduction and capacity replacement action plan that shall be filed by May 1, 2014 as part of an amendment to its resource plan.*

Sec. 9. *“Planning capacity” means an amount of firm electric generating capacity required by the electric utility to meet its peak load and provide a planning reserve margin that is authorized by the Commission.*

Sec. 10. *“Renewable energy facility” has the meaning ascribed to in NRS 704.7315.*

Sec. 11. *“Retire” means to withdraw a coal-fired electric generating plant permanently from service.*

*****Add a new section: Supply plan to include provisions for an emissions reduction and capacity replacement plan *****

Sec. 12. *An electric utility shall include in its supply plan, an emissions reduction and capacity replacement plan. The initial emissions reduction and capacity replacement plan shall be filed by the electric utility no later than May 1, 2014. Subsequent emissions reduction and capacity replacement plans shall be filed with a resource plan. The utility may amend the emissions reduction and capacity replacement plan in its resource plan or by filing an amendment to the resource plan.*

1. *The emissions reduction and capacity replacement plan shall include a schedule specifying:*

(a) *The date by which it proposes to retire or eliminate not less than 300 megawatts of coal-fired generating capacity that is no later than December 31, 2014;*

(b) *The date by which it proposes to retire or eliminate not less than 250 megawatts of coal-fired generating capacity in addition to the generating capacity retired or eliminated pursuant to subparagraph (a), that is no later than December 31, 2017;*

(c) *The date by which it proposes to retire or eliminate not less than 250 megawatts of coal-fired generating capacity, in addition to the generating capacity retired or eliminated pursuant to subparagraphs (a) and (b), that is no later than December 31, 2019.*

2. *The emissions reduction and capacity replacement plan shall:*

- (a) Identify each of the coal-fired generating units that the utility proposes to retire or eliminate;*
 - (b) Specify the amount of planning capacity associated with each of the coal-fired generating units that the utility proposes to retire or eliminate;*
 - (c) Identify the estimated unamortized balance of the electric utility's investment in each of the coal-fired generating units that will be retired or eliminated;*
 - (d) Identify the estimated unamortized balance, as of the retirement date, of the electric utility's investment in common assets directly related to each of the coal-fired generating units that the utility proposes to retire or eliminate.*
 - (e) Provide an estimate of the timeline and costs that the utility reasonably anticipates will be incurred in the process of decommissioning each of the coal-fired generating units.*
 - (f) Provide an estimate of the timeline and costs that the utility reasonably anticipates will be incurred in the process of remediating the land upon which each of the coal-fired units is located.*
 - (g) Identify any contractual or regulatory obligations associated with each of the coal-fired generating units;*
 - (h) Provide the costs, if any, associated with terminating contractual or regulatory obligations for each of the coal-fired generating units;*
 - (i) Provide all contract terms and regulatory obligations that survive the retirement or elimination of each of the coal-fired generating units;*
 - (j) Provide the anticipated end date for any liabilities associated with the contract and regulatory obligations that survive the retirement or elimination of each of the coal-fired generating units; and,*
 - (k) Provide an estimate of any offsets to decommissioning or remediation costs, including any estimates of salvage of facilities.*
- 3. An electric utility shall include in an emissions reduction and capacity replacement plan a schedule pursuant to NAC 704.945 that specifically identifies the amount of planning capacity required to replace the capacity of coal-fired generating units that are retired or eliminated and the time at which the utility plans to add such capacity.*
- 4. An electric utility shall propose, as part of its initial emissions reduction and capacity replacement plan, a request for proposal process that will be used to provide for a comparative analysis of the alternatives available for the replacement resources for the 550 megawatts of*

electric generating capacity to be constructed or acquired and owned by the electric utility pursuant to paragraph (c) of subsection 2 of NRS 704.7316.

(a) The request for proposal process must provide for, at a minimum:

(1) A timeline for the issuance of a the request for proposal and the evaluation of proposals;

(2) A clear definition of the product or products sought in the request for proposal process;

(3) Evaluation criteria, including bidder and resource criteria that is consistent with the considerations required to be assessed by the electric utility, pursuant to NRS 704.746(8); and

(4) The electric utility is permitted to recover the just and reasonable costs associated with the utilization the request for proposal process, under this section.

→ The results of the request for proposal shall be included in future emissions reduction and capacity replacement plans or amendments to an emissions reduction and capacity replacement plan to provide support for the utilities selection of replacement resources for the 550 megawatts of electric generating capacity to be constructed or acquired and owned by the electric utility pursuant to paragraph (c) of subsection 2 of NRS 704.7316.

5. For the construction or acquisition of, or contracting for, 300 megawatts of nameplate electric generating capacity from renewable energy facilities, an electric utility shall include in the emission reduction and capacity replacement plan a schedule:

(a) For the issuance of requests for proposals for 300 megawatts of nameplate generating capacity from new renewable energy facilities that includes:

(1) The date that is no later than December 31, 2014, by which it shall release public notice for the first request for proposals from new renewable energy facilities that total 100 megawatts of nameplate capacity;

(2) The date that is no later than December 31, 2015, by which it shall release public notice for the second request for proposals from new renewable energy facilities that total 100 megawatts of nameplate capacity;

(3) The date that is no later than December 31, 2016, by which it shall release public notice for the third request for proposals for new renewable energy facilities that total 100 megawatts of nameplate capacity.

(b) For each of the three requests for proposals for new renewable energy facilities, the electric utility shall provide:

(1) The approximate dates by which the electric utility reasonably anticipates announcing the entities with which the electric utility intends to negotiate binding transactional documents from each of the requests for proposals;

(2) The approximate dates by which the electric utility anticipates concluding negotiations for each of the requests for proposals; and,

(3) The approximate dates by which the electric utility reasonably anticipates submitting final transactions to the Commission for review and approval as an amendment to an emissions reduction and capacity replacement plan.

→ The electric utility shall not release a public notice for a request for proposal until the previous request for proposal process has been completed. If an electric utility or an affiliate participates in its own request for proposal process for the 300 megawatts of nameplate electric generating capacity from new renewable facilities, the electric utility shall utilize and independent evaluator who is selected in consultation with the Regulatory Operations Staff, in order to properly assess the requirements set forth in subparagraph (4) of paragraph (b) of subsection 2 of NRS 704.7316 and shall include the performance and reliability standards that the new renewable energy facility or facilities will be subject to and how those standards compare to standards that the electric utility has mandated from other renewable energy facilities with which it has executed purchase power agreements. The electric utility is not permitted to recover any of the costs from ratepayers associated with the utilization of an independent evaluator, under this section.

6. For the construction or acquisition of a portion of 50 megawatts of generating capacity from new renewable energy facilities to be owned and operated by the electric utility, the emissions reduction and capacity replacement plan shall include:

(a) A reasonable description of the new renewable energy facility or facilities that would be expected to be constructed or acquired, the nameplate capacity of which shall not exceed 50 megawatts;

(b) A budget the new renewable energy facility or facilities that the utility proposes to construct or acquire;

(c) The date that is on or before December 31, 2017, by which the utility proposes to begin construction or acquire the new renewable energy facility or facilities;

(d) The date that is on or before December 31, 2021, by which the utility reasonably anticipates completing construction of the new renewable energy facility or facilities, if applicable;

(e) A description of the ancillary utility facilities, if any, necessary to operate or interconnect the renewable generating facility; and,

(f) The performance and reliability standards that the new renewable energy facility or facilities will be subject to and how those standards compare to standards that the electric utility has mandated from other renewable energy facilities with which it has executed purchase power agreements.

7. For the construction or acquisition and ownership of 550 megawatts of electric generating capacity, the emissions reduction and capacity replacement plan shall include a schedule that contains:

(a) A reasonable description of the energy facility or facilities that would be expected to be constructed or acquired and owned by the electric utility with a total resource planning capacity of approximately 550 megawatts;

(b) A budget for each facility or facilities that the utility proposes to construct or acquire and own;

(c) The date on which the utility proposes to begin construction or complete the acquisition and obtain ownership of the facility or facilities;

(d) If relevant, the date on which the utility reasonably anticipates completing construction of the facility or facilities;

(e) The ancillary utility facilities, if any, necessary to operate or interconnect the generating facility or facilities; and,

(f) The performance and reliability standards that the energy facility or facilities will be subject to and how those standards compare to standards that the electric utility has mandated from other energy facilities with which it has executed purchase power agreements.

8. An electric utility may include in an emissions reduction and capacity replacement plan a request for approval to construct or acquire ancillary utility facilities necessary for the operation or interconnection of an electric generating facility or facilities identified in capacity replacement schedules required by subsection 7 of Section 12.

9. An electric utility shall include in its emissions reduction and capacity replacement plan a plan for tracking and specifying the accounting treatment for all costs associated with the retirement and decommissioning of the coal-fired electric generating units identified for retirement or elimination under the plan, as well as remediation costs and shall provide:

(a) That the electric utility transfer the undepreciated amount or net book value of each coal-fired generating unit retired or eliminated pursuant to an approved emissions reduction and capacity replacement plan to a regulatory asset account;

(b) That, until the regulatory asset has been processed in a general rate case and is included in revenue requirement, the electric utility shall amortize the regulatory asset balance

using the depreciation rates which are included in general rates at the time each unit is retired or eliminated;

(c) To accumulate all decommissioning and remediation costs associated with each coal-fired generating unit retired or eliminated pursuant to an approved emissions reduction and capacity replacement plan in a separate regulatory asset account;

(d) To apply a carrying charge equal to the currently approved AFUDC rate only on the decommissioning and remediation costs in the regulatory asset account; and,

(e) For salvage and any other appropriate offsets.

10. If the utility proposes natural gas facilities as replacement capacity as part of an emissions reduction and capacity replacement plan, the utility shall include in the plan a strategy for procuring fixed price physical gas. The strategy must:

(a) Include an estimate of the costs to ratepayers and a cost benefit analysis;

(b) Identify the risk associated with the uncertainty of natural gas pricing;

(c) Minimize price volatility; and

(d) Maximize the reliability of natural gas supply.

11. An emissions reduction and capacity replacement plan must include an analysis of all applicable sections of NAC 704.9005 through NAC 704.9525; and must include for each alternative presented:

(a) An analysis of the net economic benefits to the State, based upon the factors set forth in NAC 704.9357;

(b) An analysis of the opportunity provided by the alternative for the creation of new jobs in the State, including direct and indirect job creation and the retention of permanent jobs, and whether the plant will impact the creation of jobs in the State through increases or decreases in electric rates;

(c) An analysis of the cost to customers of the alternative;

(d) An analysis of the value to customers of the alternative including but not limited to the cost, the benefit and the usefulness of the alternative to customers of the utility;

12. An emissions reduction and capacity replacement plan must include a narrative explaining the selection of the emissions reduction and capacity replacement plan based upon its relative benefits demonstrated in the analyses required in subsection 11 of Section 12.

*****Add a new section: Requirements for an emissions reduction and capacity replacement action plan*****

Sec. 13. *In addition to an action plan required by NAC 704.9489, the electric utility shall file an emission reduction and capacity replacement plan action plan.*

1. In its emissions reduction and capacity replacement plan action plan, the electric utility shall specify all its actions that are to take place during the 3 years commencing with the year following the year in which the resource plan is filed, except for the initial emissions reduction and capacity replacement plan action plan that is to be filed as part of an amendment to a resource plan in 2014. The initial emissions reduction and capacity replacement plan action plan that is to be filed as part of an amendment to a resource plan in 2014, shall specify all the actions that are to take place before the next resource plan. The emissions reduction and capacity replacement plan action plan must contain:

(a) An introductory section that explains how the emissions reduction and capacity replacement plan action plan fits into the longer-term strategic plan of the utility.

(b) A list of actions for which the utility is seeking the approval of the Commission.

(c) A section for the utility's program for acquisition of resources for the supply of electric energy for the period covered by the action plan, including:

(1) The immediate plans of the utility for construction of facilities or long-term purchases of power;

(2) The expected time for construction of facilities and acquisition of long-term purchases of power identified in subparagraph (1);

(3) The major milestones of construction.

2. The emissions reduction and capacity replacement plan action plan must contain a budget for planned expenditures suitable for comparing planned and achieved expenditures. Expenses must be listed in a format that is consistent with the categories and periods to be presented in subsequent filings.

*****Add a new section: Approval of an emissions reduction and capacity replacement plan*****

Sec. 14. *1. After a hearing, the Commission may issue an order that either accepts or modifies an emissions reduction and capacity replacement plan so long as the emissions reduction and capacity replacement plan or any modifications to the plan are consistent with subsection 6 of NRS 704.751.*

- (a) The retirement or elimination of coal-fired generating capacity in a manner that is consistent with paragraph (a) of subsection 2 of NRS 704.7316.*
- (b) The issuance by the electric utility of requests for proposals from new renewable energy facilities in a manner that is consistent with paragraph (b) of subsection 2 of NRS 704.7316.*
- (c) The construction or acquisition and ownership by the electric utility of new renewable generating facilities with a nameplate capacity of 50 megawatts in a manner that is consistent with subparagraph (6) of paragraph (b) of subsection 2 of NRS 704.7316.*
- (d) The construction or acquisition and ownership by the electric utility of generating facilities with a planning capacity of approximately 550 megawatts that the Commission has determined are needed pursuant to subsection 6 of NRS 704.741 in a manner that is consistent with NRS 704.7311 through NRS 704.7322; and*
- (e) A plan to track and account for the costs of decommissioning and remediation.*
- 2. In considering whether to accept or modify an emissions reduction and capacity replacement plan, the Commission shall consider:*
- (a) The cost to the customers of the electric utility to implement the plan;*
- (b) Whether the plan provides the greatest economic benefit to this State;*
- (c) Whether the plan provides the greatest opportunities for the creation of new jobs in this State; and*
- (d) Whether the plan represents the best value to the customers of the electric utility;*
- (e) Whether the electric utility provided an adequate analysis for the factors required by subsection 11 of Section 12.*
- 3. The electric utility may accept any modifications or withdraw the emissions reduction and capacity replacement plan. If the utility withdraws the emissions reduction and capacity replacement plan, it shall file a new emissions reduction and capacity replacement plan within 180 days of withdrawing the plan or as directed by the Commission.*
- 4. If the electric utility withdraws the emissions reduction and capacity replacement plan and files a new plan within the timeframe set forth in subsection 3 of Section 14, the Commission may not issue an administrative fine against the utility for failing to comply with the requirements of NRS 704.7311 through NRS 704.7322.*

*****Add a new section: Approval of emissions reduction and capacity replacement action plan*****

Sec. 15. 1. *The Commission will issue an order:*

(a) Either accepting or modifying the emissions reduction and capacity replacement plan as specified in Section 13.

(b) Approving the emissions reduction and capacity replacement plan action plan of the utility as filed; or

(b) If the emissions reduction and capacity replacement plan action plan is not approved as filed, specifying those parts of the emissions reduction and capacity replacement plan action plan the Commission considers inadequate.

2. Approval by the Commission of an emissions reduction and capacity replacement plan action plan constitutes a finding that the programs and projects contained in that emissions reduction and capacity replacement plan action plan are prudent. If the Commission subsequently determines that any information relied upon when issuing its order approving the emissions reduction and capacity replacement plan action plan was based upon information that was known or should have been known by the utility to be untrue or false at the time the information was presented, the Commission may revoke, rescind or otherwise modify its approval of the emissions reduction and capacity replacement plan action plan

*****Add a new section: Monitoring and amendment to emission reduction and capacity replacement plan action plan*****

Sec. 16. 1. *An electric utility shall continually monitor its emissions reduction and capacity replacement plan action plan and shall amend the plan before it submits its next emissions reduction and capacity replacement plan 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 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 emissions reduction and capacity replacement plan action plan approved by the Commission.

(d) The utility makes a commitment for an option that was not available at the time the emissions reduction and capacity replacement plan action plan was approved.

(e) 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 emissions reduction and capacity replacement plan action plan.

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

*****Add a new section: Contents of amendment to emissions reduction and capacity replacement plan action plan*****

Sec. 17. *1. An amendment to an action plan submitted by a utility pursuant to Section 16 must contain:*

(a) A section that identifies the items for which the utility is requesting specific approval;

(b) A section that specifies any changes in assumptions or data that have occurred since the utility's last resource plan was filed;

(c) As applicable, information required in Section 13;

(d) As applicable, data and information required pursuant to NAC 704.922 to 704.948, inclusive, necessary to facilitate an evaluation of the items specified pursuant to paragraph (a) for which the utility is requesting specific approval;

2. If the utility seeks an amendment related to a renewable energy contract, information about the imputed debt mitigation as necessary.

3. For amendments submitted pursuant to Section 16, a utility shall file with the Commission the information required pursuant to paragraph (d) of subsection 1 of this section.

*****Add a new section: Approval of amendment to emissions reduction and capacity replacement plan action plan*****

Sec. 18. *For amendments filed pursuant to Section 16 the Commission will issue an order approving the amendment as filed or specifying those parts of the amendment the Commission considers inadequate.*

*****Add a new section: Cost recovery for an emissions reduction and capacity replacement plan*****

Sec. 19. *1. For each new utility facility constructed or acquired and owned by an electric utility pursuant to an approved emissions reduction and capacity replacement plan, the electric utility shall create a regulatory asset for each facility at the time it is placed into operation prior to inclusion in general rates.*

2. Within each such regulatory asset account, the electric utility shall begin calculating and recording the following costs, the month after the asset has been placed into plant in service:

- (a) Carrying charges reflecting the most recently authorized rate of return on net plant balance of the facility constructed or acquired;**
- (b) The depreciation expense recorded on that facility;**
- (c) All expenses incurred by the electric utility to operate and maintain facility; and**
- (d) Carrying charges on the regulatory asset balance reflecting the most recently authorized rate of return**

3. The electric utility shall submit the regulatory asset accounts to the Commission in the next general rate case necessary to clear the accumulated balance. Included in the request for recovery, the electric utility shall:

- (a) Propose a period for recovery and amortization of the asset; and,**
- (b) Request an amount necessary to recover a return on the unamortized balance accumulated as of the end of the test period or certification period, whichever is later.**