

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

LCB File No. R131-13

December 17, 2013

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

AUTHORITY: §§1-19, NRS 704.7322 and 704.741.

A REGULATION relating to utilities; establishing provisions governing the emissions reduction and capacity replacement plan required to be filed with the Public Utilities Commission of Nevada by an electric utility that primarily serves densely populated counties; and providing other matters properly relating thereto.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this regulation.

Sec. 2. *“Coal-fired electric generating capacity” means the planning capacity of a coal-fired electric generating plant or coal-fired electric generating unit as depicted in the loads and resources table that was included in the most recent resource plan filed by an electric utility that primarily serves densely populated counties and accepted by the Commission pursuant to NRS 704.751 before June 11, 2013.*

Sec. 3. *“Coal-fired electric generating plant” has the meaning ascribed to it in NRS 704.7312.*

Sec. 4. *“Coal-fired electric generating unit” means an electric generating unit which burns coal to produce electricity and which is owned, in whole or in part, by an electric utility that primarily serves densely populated counties.*

Sec. 5. *“Electric utility that primarily serves densely populated counties” has the meaning ascribed to it in paragraph (c) of subsection 17 of NRS 704.110.*

Sec. 6. *“Eliminate” or “elimination” means the divestment by an electric utility that primarily serves densely populated counties of an interest in a coal-fired electric generating plant or coal-fired electric generating unit such that:*

- 1. The utility no longer relies upon the plant or unit to provide service to its customers; and*
- 2. The cost of the plant or unit, other than the costs described in paragraph (e) of subsection 2 of NRS 704.7316 and approved by the Commission to be included in the utility’s rates in an application submitted to the Commission after the elimination of the plant or unit, is no longer included in the utility’s rates.*

Sec. 7. *“Emissions reduction and capacity replacement action plan” means:*

- 1. With respect to the initial emissions reduction and capacity replacement action plan filed on or before May 1, 2014, by an electric utility that primarily serves densely populated counties as part of an amendment to the utility’s resource plan, a detailed specification of the actions the utility intends to undertake to meet the requirements of its emissions reduction and capacity replacement plan during the period before the filing of its next resource plan.*
- 2. With respect to any subsequent emissions reduction and capacity replacement action plan filed by an electric utility that primarily serves densely populated counties with the utility’s resource plan, a detailed specification of the actions the utility intends to undertake to meet the requirements of its emissions reduction and capacity replacement plan during the 3 years immediately following the year in which the utility’s resource plan is filed.*

Sec. 8. *“Emissions reduction and capacity replacement plan” has the meaning ascribed to it in NRS 704.7314.*

Sec. 9. *“Planning capacity” means an amount of firm electric generating capacity required by an electric utility that primarily serves densely populated counties 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 it in NRS 704.7315.*

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

Sec. 12. 1. *Except as otherwise provided in this subsection, an electric utility that primarily serves densely populated counties shall include in its supply plan an emissions reduction and capacity replacement plan. The utility shall file its initial emissions reduction and capacity replacement plan on or before May 1, 2014, and shall file each subsequent emissions reduction and capacity replacement plan with its resource plan. The utility may amend its emissions reduction and capacity replacement plan in its resource plan or by filing an amendment to its resource plan.*

2. *With respect to the retirement or elimination of coal-fired electric generating capacity which must be provided for in the emissions reduction and capacity replacement plan of an electric utility that primarily serves densely populated counties pursuant to paragraph (a) of subsection 2 of NRS 704.7316, the emissions reduction and capacity replacement plan of the utility must:*

(a) Include a schedule specifying the date by which the utility proposes to retire or eliminate:

(1) Not less than 300 megawatts of coal-fired electric generating capacity, which must not be later than December 31, 2014.

(2) Not less than 250 megawatts of coal-fired electric generating capacity in addition to the generating capacity retired or eliminated pursuant to subparagraph (1), which must not be later than December 31, 2017.

(3) Not less than 250 megawatts of coal-fired electric generating capacity in addition to the generating capacity retired or eliminated pursuant to subparagraphs (1) and (2), which must not be later than December 31, 2019.

(b) Identify each coal-fired electric generating unit that the utility proposes to retire or eliminate.

(c) Specify the amount of planning capacity associated with each coal-fired electric generating unit that the utility proposes to retire or eliminate.

(d) Identify the estimated unamortized balance of the utility's investment in each coal-fired electric generating unit that the utility proposes to retire or eliminate.

(e) Identify the estimated unamortized balance, as of the proposed retirement or elimination date, of the utility's investment in common assets directly related to each coal-fired electric generating unit that the utility proposes to retire or eliminate.

(f) Provide an estimate of the timeline for, and costs that the utility reasonably anticipates will be incurred in, the process of decommissioning each coal-fired electric generating unit that the utility proposes to retire or eliminate.

(g) Provide an estimate of the timeline for, and costs that the utility reasonably anticipates will be incurred in, the process of remediating the land upon which each coal-fired electric generating unit that the utility proposes to retire or eliminate is located.

(h) Provide an estimate of any offsets of the costs of decommissioning each coal-fired electric generating unit that the utility proposes to retire or eliminate and remediating the land upon which each such unit is located.

(i) Identify any contractual or regulatory obligations associated with each coal-fired electric generating unit that the utility proposes to retire or eliminate.

(j) Provide the costs, if any, associated with terminating any contractual or regulatory obligations identified pursuant to paragraph (i).

(k) Provide all contract terms and regulatory obligations that survive the retirement or elimination of each coal-fired electric generating unit that the utility proposes to retire or eliminate.

(l) Provide the anticipated end date of any liability associated with the contractual and regulatory obligations that survive the retirement or elimination of each coal-fired electric generating unit that the utility proposes to retire or eliminate.

3. With respect to the construction and acquisition of, or contracting for, 350 megawatts of electric generating capacity from renewable energy facilities which must be provided for in the emissions reduction and capacity replacement plan of an electric utility that primarily serves densely populated counties pursuant to paragraph (b) of subsection 2 of NRS 704.7316, the emissions reduction and capacity replacement plan of the utility must:

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

(1) Specifies the date by which the utility will release public notice for:

(I) The first request for proposals for 100 megawatts of nameplate generating capacity from new renewable energy facilities, which must not be later than December 31, 2014.

(II) The second request for proposals for 100 megawatts of nameplate generating capacity from new renewable energy facilities, which must not be later than December 31, 2015.

(III) The third request for proposals for 100 megawatts of nameplate generating capacity from new renewable energy facilities, which must not be later than December 31, 2016.

(2) For each request for proposals described in subparagraph (1), identifies the approximate date by which the utility reasonably anticipates:

(I) Announcing the entity with which the utility intends to negotiate binding transactional documents.

(II) Concluding negotiations for binding transactional documents.

(III) Filing an amendment to its emissions reduction and capacity replacement plan to seek the Commission's approval and acceptance of final transactions to construct, acquire or contract with the new renewable energy facilities.

(b) Provide for the construction or acquisition of a portion of a new renewable energy facility or facilities with a generating capacity of 50 megawatts to be owned and operated by the utility. With respect to the new renewable energy facility or facilities described in this paragraph, the emissions reduction and capacity replacement plan of the utility must include:

(1) A reasonable description of the new renewable energy facility or facilities.

(2) A budget for the new renewable energy facility or facilities.

(3) The date by which the utility proposes to begin construction of or acquire the new renewable energy facility or facilities, which must not be later than December 31, 2017.

(4) If applicable, the date by which the utility reasonably anticipates completing the construction of the new renewable energy facility or facilities, which must not be later than December 31, 2021.

(5) A description of the ancillary utility facilities, if any, necessary to operate or interconnect the new renewable energy facility or facilities.

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

↪ An electric utility that primarily serves densely populated counties shall not release the public notice for a request for proposals described in sub-subparagraphs (II) and (III) of subparagraph (1) of paragraph (a) until the previous request for proposals process has been completed. If an electric utility that primarily serves densely populated counties or an affiliate of such a utility submits proposals in response to a request for proposals described in subparagraph (1) of paragraph (a), the utility must use an independent evaluator selected in consultation with the Staff to identify the renewable energy facility or facilities that satisfy the criteria set forth in subparagraph (4) of paragraph (b) of subsection 2 of NRS 704.7316, and shall include in the request for proposals the performance and reliability standards to which the new renewable energy facility or facilities will be subject and a statement of how those standards compare to standards that the utility has mandated from other renewable energy facilities with which the utility has executed power purchase agreements. A utility may not

recover from ratepayers any of the costs associated with the use of an independent evaluator pursuant to this subsection.

4. With respect to the construction and acquisition or ownership of electric generating plants with an electric generating capacity of 550 megawatts which must be provided for in the emissions reduction and capacity replacement plan of an electric utility that primarily serves densely populated counties pursuant to paragraph (c) of subsection 2 of NRS 704.7316, the emissions reduction and capacity replacement plan of the utility must include:

(a) A reasonable description of the electric generating plant or plants with a total generating capacity of approximately 550 megawatts that the utility proposes to construct or acquire and own.

(b) A budget for each such electric generating plant.

(c) The date by which the utility proposes to begin construction or complete the acquisition and obtain ownership of the electric generating plant or plants.

(d) If applicable, the date by which the utility reasonably anticipates completing the construction of the electric generating plant or plants.

(e) A description of the ancillary utility facilities, if any, necessary to operate or interconnect the electric generating plant or plants.

(f) The performance and reliability standards to which the electric generating plant or plants will be subject and a statement of how those standards compare to standards that the utility has mandated from other electric generating plants with which the utility has executed power purchase agreements.

↪ *The emissions reduction and capacity replacement plan of the utility may include a request for approval to construct or acquire ancillary utility facilities necessary for the operation or interconnection of an electric generating plant or plants identified in this subsection.*

5. *If, pursuant to paragraph (d) of subsection 2 of NRS 704.7316, the emissions reduction and capacity replacement plan of an electric utility that primarily serves densely populated counties includes the construction or acquisition of one or more natural gas-fired electric generating plants as replacement capacity for the retirement or elimination of coal-fired electric generating capacity, the emissions reduction and capacity replacement plan of the utility must provide for 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 risks associated with the uncertainty of natural gas pricing.*
- (c) Minimize price volatility.*
- (d) Maximize the reliability of the supply of natural gas.*

6. *With respect to the plan for tracking and specifying the accounting treatment for all costs associated with the decommissioning of the coal-fired electric generating plants identified for retirement or elimination which must be provided for in the emissions reduction and capacity replacement plan of an electric utility that primarily serves densely populated counties pursuant to paragraph (e) of subsection 2 of NRS 704.7316, the emissions reduction and capacity replacement plan of the utility must:*

- (a) Include a plan for tracking and specifying the accounting treatment of all costs:*
 - (1) Associated with the retirement and decommissioning of the coal-fired electric generating units identified for retirement or elimination under the emissions reduction and capacity replacement plan.*

(2) Of remediating the land upon which each coal-fired electric generating unit that the utility proposes to retire or eliminate is located.

(b) Provide:

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

(2) That until a regulatory asset has been processed in a general rate case and is included in the utility's revenue requirement, the utility must amortize the regulatory asset balance using the depreciation rates which are included in general rates at the time each unit is retired or eliminated.

(3) For the accumulation of all decommissioning and remediation costs associated with each coal-fired electric generating unit retired or eliminated pursuant to an approved emissions reduction and capacity replacement plan in a separate regulatory asset account.

(4) For applying a carrying charge equal to the currently approved AFUDC rate only on the decommissioning and remediation costs in the regulatory asset account.

(5) For salvage and any other appropriate offsets.

7. In addition to the information required to be included in the emissions reduction and capacity replacement plan of an electric utility that primarily serves densely populated counties pursuant to subsections 1 to 6, inclusive, the emissions reduction and capacity replacement plan of the utility must include:

(a) A schedule of the information described in NAC 704.945 that specifically identifies the amount of planning capacity required to replace the capacity of coal-fired electric generating

units that are retired or eliminated under the emissions reduction and capacity replacement plan and the time at which the utility plans to add such capacity.

(b) An analysis of all applicable provisions of NAC 704.9005 to 704.9525, inclusive, and sections 2 to 19, inclusive, of this regulation, and, for each alternative presented, an analysis of:

(1) The net economic benefit to this State based upon the factors set forth in NAC 704.9357.

(2) The opportunity provided by the alternative for the creation of new jobs in this State, including, without limitation, direct and indirect job creation and the retention of permanent jobs, and whether the alternative will impact the creation of jobs in this State through increases or decreases in electric rates.

(3) The cost of the alternative to customers.

(4) The value of the alternative to customers, including, without limitation, the benefit and the usefulness of the alternative to customers.

(c) A narrative explaining the selection of the emissions reduction and capacity replacement plan based upon the relative benefits demonstrated in the analyses required by paragraph (b).

8. In addition to the information required by subsections 1 to 7, inclusive, an electric utility that primarily serves densely populated counties shall propose, as part of its initial emissions reduction and capacity replacement plan, a request for proposals process that will be used to provide for a comparative analysis of the alternatives available for the 550 megawatts of electric generating capacity to be constructed or acquired and owned by the

utility pursuant to paragraph (c) of subsection 2 of NRS 704.7316. At a minimum, the request for proposals process must provide:

(a) A timeline for the issuance of requests for proposals and the evaluations of proposals.

(b) A clear definition of the product or products sought in the request for proposals process.

(c) Evaluation criteria, including, without limitation, bidder and resource criteria that is consistent with the considerations to be assessed pursuant to subsection 8 of NRS 704.746.

↪ The utility may recover the just and reasonable costs associated with the utilization of the request for proposals process proposed pursuant to this subsection. The utility shall include the results of the request for proposals process in future emissions reduction and capacity replacement plans and any amendments to an emissions reduction and capacity replacement plan to support the utility's selection of replacement resources as part of the 550 megawatts of electric generating capacity to be constructed or acquired and owned by the utility pursuant to paragraph (c) of subsection 2 of NRS 704.7316.

Sec. 13. 1. *In addition to the action plan required by NAC 704.9489, an electric utility that primarily serves densely populated counties shall file with its resource plan an emissions reduction and capacity replacement action plan, except that the initial emissions reduction and capacity replacement action plan must be filed on or before May 1, 2014, as an amendment to the resource plan of the electric utility.*

2. *In its emissions reduction and capacity replacement action plan, an electric utility that primarily serves densely populated counties shall specify all the 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 that in its initial emissions reduction and capacity replacement action plan, the*

utility shall specify all the actions that are to take place before the filing of its next resource plan. The emissions reduction and capacity replacement action plan must contain:

(a) An introductory section that explains how the emissions reduction and capacity replacement 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 emissions reduction and capacity replacement 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.

3. The emission reduction and capacity replacement 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.

Sec. 14. 1. *After a hearing, the Commission may issue an order accepting or modifying an emissions reduction and capacity replacement plan of an electric utility that primarily serves densely populated counties if the emissions reduction and capacity replacement plan or any modifications to the plan provide for:*

(a) The retirement or elimination of coal-fired electric generating capacity in a manner that is consistent with paragraph (a) of subsection 2 of NRS 704.7316.

(b) The issuance by the utility of requests for proposals for electric generating capacity 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 utility of new renewable energy 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 utility of electric generating facilities with a planning capacity of approximately 550 megawatts that the Commission has determined are needed pursuant to subsection 6 of NRS 704.751 in a manner that is consistent with the provisions of NRS 704.7311 to 704.7322, inclusive., and the regulations adopted pursuant thereto.

(e) If the plan includes the construction or acquisition of one or more natural gas-fired electric generating plants, a strategy for the commercially reasonable physical procurement of fixed-price natural gas by the utility, as required by paragraph (d) of subsection 2 of NRS 704.7316.

(f) A plan to account for the costs associated with the retirement and decommissioning of the coal-fired electric generating units identified for retirement or elimination under the emissions reduction and capacity replacement plan and for all remediation costs.

2. In considering whether to accept or modify the emissions reduction and capacity replacement plan of an electric utility that primarily serves densely populated counties, the Commission will consider the factors set forth in subsection 8 of NRS 704.746 and the analyses related to those factors which is provided by the utility pursuant to paragraph (b) of subsection 7 of section 12 of this regulation.

3. If the Commission issues an order modifying the emissions reduction and capacity replacement plan of an electric utility that primarily serves densely populated counties, the utility may accept the modifications made by the Commission or withdraw the emissions reduction and capacity replacement plan. If the utility withdraws its emissions reduction and capacity replacement plan pursuant to this subsection:

(a) The utility must file a new emissions reduction and capacity replacement plan within 180 days after withdrawing the plan or as directed by the Commission.

(b) The Commission may not impose an administrative fine against the utility for failing to comply with the requirements of NRS 704.7311 to 704.7322, inclusive, and regulation adopted pursuant thereto, if the utility files a new emissions reduction and capacity replacement plan within the timeframe set forth in paragraph (a).

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

(a) Approving the emissions reduction and capacity replacement action plan of an electric utility that primarily serves densely populated counties as filed; or

(b) If the emission reduction and capacity replacement action plan of an electric utility that primarily serves densely populated counties is not approved as filed, specifying those parts of the action plan the Commission considers inadequate.

2. Approval by the Commission of an emissions reduction and capacity replacement action plan constitutes a finding that the programs and projects contained in that plan are prudent. If the Commission subsequently determines that any information relied upon when issuing its order approving the emissions reduction and capacity replacement 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 action plan.

Sec. 16. 1. *An electric utility that primarily serves densely populated counties shall continually monitor its emissions reduction and capacity replacement action plan and shall amend the action plan before it submits its next emissions reduction and capacity replacement 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 emissions reduction and capacity replacement 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 emissions reduction and capacity replacement 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 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 action plan was approved.

(e) The basic data used in the formation of the emissions reduction and capacity replacement action plan requires significant modification that affects the choice of a resource which was approved as part of the plan.

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

Sec. 17. 1. *An amendment to an emissions reduction and capacity replacement action plan submitted by an electric utility that primarily serves densely populated counties pursuant to section 16 of this regulation 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, the information required by section 13 of this regulation;

(d) As applicable, the data and information required pursuant to NAC 704.922 to 704.948, inclusive, and section 12 of this regulation necessary to facilitate an evaluation of the items identified pursuant to paragraph (a) for which the utility is requesting specific approval; and

(e) If the utility seeks an amendment related to a renewable energy contract or energy efficiency contract, information about the imputed debt mitigation.

2. *For an amendment to an emissions reduction and capacity replacement action plan submitted pursuant to paragraphs (a) and (e) of subsection 1 of section 16 of this regulation, an electric utility that primarily serves densely populated counties shall file with the Commission the information required pursuant to paragraph (d) of subsection 1 of this section.*

Sec. 18. *For an amendment to an emissions reduction and capacity replacement action plan filed pursuant to section 16 of this regulation, the Commission will issue an order approving the amendment as filed or specifying those parts of the amendment the Commission considers inadequate.*

Sec. 19. 1. *For each new utility facility constructed or acquired and owned by an electric utility that primarily serves densely populated counties pursuant to an emissions*

reduction and capacity replacement plan approved by the Commission, the utility shall create a regulatory asset for each facility at the time it is placed into operation before inclusion in general rates.

2. Within each such regulatory asset account, the 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 and owned;

(b) The depreciation expense recorded on that facility;

(c) All expenses incurred by the utility to operate and maintain the facility; and

(d) Carrying charges on the regulatory asset balance which reflect the most recently authorized rate of return.

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

(a) A proposed period for recovery and amortization of the asset; and

(b) A request for 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.