

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

**LCB File No. R003-14**

Effective October 24, 2014

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

AUTHORITY: §§1 and 2, NRS 704.210; §§3-6, NRS 704.210 and 704.992.

A REGULATION relating to public utilities; revising provisions governing the recovery of the costs incurred by a gas utility to implement certain conservation and energy efficiency programs; revising various provisions governing certain conservation and energy efficiency programs implemented by gas utilities; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires the Public Utilities Commission of Nevada to adopt regulations that establish methods and programs which remove the financial disincentives that discourage energy conservation for gas utilities. These regulations must include, without limitation: (1) procedures for a gas utility to have a mechanism to ensure that the costs for providing service are recovered without regard to the difference in the quantity of natural gas actually sold by the gas utility; and (2) procedures for a gas utility to apply to the Commission for the recovery of costs associated with conservation or energy efficiency activities approved by the Commission. (NRS 704.992)

Existing regulations authorize a gas utility to implement conservation and energy efficiency programs approved by the Commission and recover the costs of implementing these programs using an equity adder methodology. (NAC 704.9704, 704.9714) Existing regulations also authorize a gas utility which has not elected to recover costs using the equity adder methodology to seek approval from the Commission to decouple general revenue. (NAC 704.9716) If the Commission authorizes a gas utility to decouple general revenue, the gas utility must recover or refund its deferred general revenue by applying a general revenue decoupling adjustment rate. (NAC 704.9718)

This regulation amends provisions relating to the implementation of conservation and energy efficiency programs and the manner in which a gas utility recovers the costs of implementing such programs. **Section 4** of this regulation adopts provisions setting forth the manner in which a gas utility authorized by the Commission to decouple general revenue accounts may recover the costs of implementing conservation and energy efficiency programs. **Section 6** of this regulation amends regulations governing the manner in which a gas utility authorized by the Commission to decouple general revenue calculates the general revenue decoupling adjustment rate used by the

gas utility to recover or refund its deferred general revenue. **Section 5** of this regulation: (1) provides that certain information concerning the change in risk associated with an approved general revenue decoupling methodology is not required to be included in the gas utility's subsequent general rate application but in determining the gas utility's return on equity, the Commission may consider evidence of a change in such risk provided in the general rate application; and (2) specifies the manner in which a gas utility may obtain the approval of the Commission to exempt a customer class from the general revenue decoupling methodology used by the gas utility.

**Section 1.** NAC 704.9534 is hereby amended to read as follows:

704.9534 "Base tariff general rate" means the rate determined by the Commission to collect all revenue other than revenue collected in the base tariff energy rate, as defined in NAC 704.032, the deferred energy accounting adjustment, as defined in NAC 704.037, the adjustment to the base tariff general rate to recover accumulated deferred interest, as described in NAC 704.217, ~~and~~ the general revenue decoupling adjustment set forth in NAC 704.9718 ~~and any rate approved by the Commission in connection with a request for approval submitted to the Commission pursuant to subsection 2 of NRS 704.185.~~

**Sec. 2.** NAC 704.9598 is hereby amended to read as follows:

704.9598 "Tracking period" means the ~~first full~~ 12-month period ~~following the implementation of the most recently authorized general rates, and each 12-month period thereafter.~~ *used for a gas utility's annual application filed pursuant to NAC 704.116.*

**Sec. 3.** NAC 704.9708 is hereby amended to read as follows:

704.9708 1. The conservation and energy efficiency plan must include, without limitation:

- (a) An identification of end-uses for conservation and energy efficiency programs;
- (b) An assessment of the savings attributable to technically feasible conservation and energy efficiency programs, as determined by the gas utility, which must rank the programs in lists according to the level of savings in gas consumption and according to the level of reduction in demand; and

(c) An assessment of technically feasible programs to determine which will produce benefits in peak demand or gas consumption. The gas utility shall estimate the cost of each such program. The methods used for the assessment must be stated in detail, specifically listing the data and assumptions considered in the assessment.

2. In developing its conservation and energy efficiency plan, a gas utility shall consider the impact of applicable new technologies on current options for the plan. The consideration of new technologies must include, without limitation, consideration of the potential impact of advances in digital technology and computer information systems.

3. A gas utility shall include in its conservation and energy efficiency plan a program for residential customers which reduces the consumption of gas, electricity or any fossil fuel. The energy efficiency program must include the use of new solar thermal energy sources **+** *unless the gas utility has filed an application seeking the Commission's approval of a plan for a solar thermal program or the Commission has approved the gas utility's plan for a solar thermal program.* As used in this subsection, "new solar thermal energy sources" means those sources installed after the effective date of the energy efficiency program that displace gas, electricity or any fossil fuel consumption by using solar radiation to heat water or provide space heating or cooling.

4. The conservation and energy efficiency plan must include a list of the programs for which the gas utility is requesting the approval of the Commission. The list must include, without limitation:

(a) An estimate of the reduction in the peak demand and gas consumption that would result from each proposed program, in therms saved, which lists the programs according to their expected savings and their contribution to a reduction in peak demand and gas consumption

based upon realistic estimates of the penetration of the market and the average life of the programs;

(b) An assessment of the costs of each proposed program and the savings produced by the program, including the savings in the costs of transmission and distribution if the program can be relied upon to reduce peak demand on a firm basis;

(c) An assessment of the impact on the gas utility's load shapes of each proposed and existing conservation and energy efficiency program;

(d) If a program is an educational program, the projected expenses of the gas utility for the educational program;

(e) A complete life-cycle cost analysis of the costs and benefits of the program in the form of the total resource cost test for any conservation and energy efficiency program which reduces the consumption of gas, electricity or any fossil fuel; and

(f) A discussion of the degree of coordination between any conservation and energy efficiency program of the gas utility with an electric utility serving the same area and any potential cost savings or improvements in cost-effectiveness resulting from such coordination.

5. The gas utility shall include with its conservation and energy efficiency plan a report on the status of all conservation and energy efficiency programs that have been included in a plan accepted by the Commission. The report must include tables for each such program showing, for each year, the planned reduction in therms, the achieved reduction in therms and the cost of the program. The gas utility shall include other information not elsewhere required in this section as set forth in subsection 3 of NAC 704.9712.

6. The gas utility shall provide with its conservation and energy efficiency plan any other information necessary to enable an informed reader to examine and verify the adequacy and accuracy of the data, assumptions and methods used in developing the plan.

7. The gas utility shall provide with its conservation and energy efficiency plan a discussion of any change in risk for the gas utility, including, without limitation, stabilization of revenue for the gas utility.

**Sec. 4.** NAC 704.9714 is hereby amended to read as follows:

704.9714 1. All costs of implementing the substantive conservation and energy efficiency programs included in a conservation and energy efficiency plan accepted by the Commission must be accounted for in the books and records of the gas utility separately from amounts attributable to any other activities. All accounts must be maintained in such a manner as will allow costs attributable to specific programs to be readily identified. These costs must be segregated into the same categories as specified in the budget for the 3-year planning period.

2. The gas utility may recover all just and reasonable costs for implementing substantive conservation and energy efficiency programs included in an application that the Commission has accepted either as part of the gas utility's conservation and energy efficiency plan or as modified in the gas utility's annual conservation and energy efficiency plan report. These costs may include, without limitation, costs for labor, overhead, materials, incentives paid to customers, advertising, marketing, measurement, verification and evaluation.

3. To recover costs incurred in implementing substantive conservation and energy efficiency programs, ~~the~~ a gas utility *using the equity adder methodology pursuant to NAC 704.9704* must:

(a) Calculate, on a monthly basis, the costs incurred in implementing each program since the end of the period ~~H~~ *used to establish the amount of program costs included in the rate base in the most recent application filed by the gas utility to change general rates;*

(b) Record the total cost of implementing each program, as calculated in paragraph (a), in a separate subaccount of FERC Account No. 182.3 for each program and record an offset in the appropriate subaccount of other FERC accounts;

(c) Maintain subsidiary records of the subaccounts of FERC Account No. 182.3 for each program which must clearly delineate all costs incurred by the gas utility in implementing each program accepted by the Commission;

(d) Apply a carrying charge at the rate of 1/12 of the authorized overall rate of return to the current balance in the subaccounts of FERC Account No. 182.3 for each program not included in the rate base; and

(e) Clear any balance accumulated in the subaccounts of FERC Account No. 182.3 for each program in the manner set forth in subsection 4 as a component of an application by the gas utility to change rates.

4. For the purposes of paragraph (e) of subsection 3, to clear a balance:

(a) The Commission will adjust the rate to amortize the balance over a 3-year period, unless otherwise specified by the Commission;

(b) The gas utility must begin amortizing costs on the date that the change in general rates becomes effective;

(c) The gas utility must include the balance in the subaccounts of FERC Account No. 182.3 for each program, including carrying charges, in the rate base as of the date that ends the period used in the application filed by the gas utility pursuant to NRS 704.110; and

(d) If calculating the revenue requirements under the equity adder methodology, the utility must base the rate of return to be applied to the balance in the subaccounts of FERC Account No. 182.3 for each program that the utility has carried out on the most recently authorized return on equity plus 5 percent.

*5. To recover costs incurred in implementing substantive conservation and energy efficiency programs, a gas utility authorized to use the general revenue decoupling methodology pursuant to NAC 704.9716 must:*

*(a) Establish and maintain separate subsidiary records of the subaccounts of FERC Account No. 182.3 for each program which must clearly delineate by month and by rate effective period all costs incurred by the gas utility in implementing each program.*

*(b) At the time the gas utility files an annual application pursuant to NAC 704.116, apply to the Commission to establish the following rates:*

*(1) A prospective base program cost rate which is determined by dividing the total projected cost for the rate effective period of each program by the projected therm sales for the rate effective period.*

*(2) A deferred program cost rate which is determined by dividing the cumulative balance of the subaccounts of FERC Account No. 182.3 for each program as of the adjustment date, as defined in NAC 704.024, by the therm sales for the test period, as defined in NAC 704.063.*

*6. A gas utility using the general revenue decoupling methodology pursuant to NAC 704.9716 shall account for the costs incurred to implement substantive conservation and energy efficiency programs and the revenues received from the prospective base program cost*

*rate established pursuant to subparagraph (1) of paragraph (b) of subsection 5 in the following manner:*

*(a) On a monthly basis, the gas utility shall record in a subaccount of FERC Account No.*

*182.3 the:*

*(1) Costs incurred to implement the programs;*

*(2) Revenues received from the prospective base program cost rate; and*

*(3) Revenues or credits received from the deferred program cost rate established pursuant to subparagraph (2) of paragraph (b) of subsection 5 for the programs or the amount refunded by the deferred program cost rate.*

*(b) On a monthly basis, the gas 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 subaccounts of FERC Account No. 182.3.*

**Sec. 5.** NAC 704.9716 is hereby amended to read as follows:

704.9716 1. To remove financial disincentives that discourage a public utility which purchases natural gas for resale from planning and implementing substantive conservation and energy efficiency programs, a gas utility not electing to recover program costs using an equity adder methodology may seek approval from the Commission to decouple general revenue. A gas utility seeking approval from the Commission to decouple general revenue must file a request to decouple general revenue with the Commission as part of a general rate application filed pursuant to NRS 704.110. A gas utility electing to decouple general revenue must recover the costs of its substantive conservation and energy efficiency programs pursuant to *subsection 5 of* NAC 704.9714. If the gas utility files a request to decouple general revenue, the gas utility's application must include a discussion identifying any change in risk for the gas utility and a



calculation to adjust for the change in risk and demonstrate the impact on the current and requested rate design for the gas utility. *If the Commission approves a gas utility's request to decouple general revenue, the gas utility is not required to include a discussion identifying any change in risk associated with the approved general revenue decoupling methodology in its subsequent general rate application filed pursuant to NRS 704.110 but in determining the gas utility's return on equity, the Commission may consider evidence concerning any change in risk associated with the approved general revenue decoupling methodology provided in the general rate application.*

2. As part of a gas utility's general rate case application seeking approval from the Commission to decouple general revenue, the gas utility must outline its plan to educate customers about general revenue decoupling.

3. In considering a request to decouple general revenue, the Commission will seek to harmonize the incentives of general revenue decoupling methodology with the rate design of the gas utility filing the request. Harmonization by the Commission will include, without limitation, the use of the information contained in the approved conservation and energy efficiency plan to modify the customer class billing determinants used to establish the base tariff general rate in the general rate application filed pursuant to NRS 704.110 that includes the request to decouple general revenue. *In the initial general rate application requesting approval to decouple general rate revenues and each subsequent general rate application for which the gas utility continues to use the general revenue decoupling methodology, the gas utility must request approval to exempt any customer class from the general revenue decoupling methodology.* The gas utility must apply the *approved* general revenue decoupling methodology ~~approved by the~~

~~Commission]~~ to all customer classes ~~[- excluding customers served under negotiated agreements.]~~ *not specifically exempted by the Commission.*

4. To file a request to decouple general revenue, a gas utility must have an order of the Commission accepting the conservation and energy efficiency plan, with the acceptance occurring not more than 1 year before the gas utility files the request to decouple general revenue. Execution of the conservation and energy efficiency plan will be deferred until the general revenue decoupling methodology is implemented.

5. ~~[If the Commission approves the general revenue decoupling methodology requested by a gas utility, the gas utility may continue to use the approved general revenue decoupling methodology until its next general rate case.]~~ A gas utility's request to ~~[continue or]~~ discontinue the approved general revenue decoupling methodology must be included in a general rate application filed pursuant to NRS 704.110.

**Sec. 6.** NAC 704.9718 is hereby amended to read as follows:

704.9718 1. A gas utility authorized to use the general revenue decoupling methodology must recover or refund its deferred general revenue by applying a per therm general revenue decoupling adjustment for each applicable customer class. The general revenue decoupling adjustment rate must remain in effect until the Commission changes the rate.

2. The general revenue decoupling adjustment rate must be adjusted annually in ~~[the annual conservation and energy efficiency plan report and conservation and energy efficiency plan]~~ *an annual application* filed *pursuant to NAC 704.116* after the implementation of the general revenue decoupling methodology.

3. The general revenue decoupling adjustment rate must be calculated individually for each *applicable* customer class ~~excluding customers served under negotiated agreements,~~ and accounted for as follows:

(a) A separate subaccount of FERC Account No. 182.3 must be maintained for each *applicable* customer class, ~~excluding customers served under negotiated agreements,~~ and the balance of the subaccount must be used to calculate the general revenue decoupling adjustment.

(b) ~~The~~ *Monthly, the* gas utility must calculate ~~annually~~ *and record in the appropriate subaccount of FERC Account No. 182.3* the deferred general revenue. The deferred general revenue per ~~customer~~ *month* equals the difference between:

(1) The *monthly* general revenue on a per customer basis authorized in the general rate application in which the Commission approved the request to decouple revenue or, if applicable, the subsequent change in *monthly* general rate revenue approved by the Commission ~~;~~ *multiplied by the number of customers billed during the period, excluding customers who discontinue service and receive a final bill during that period;* and

(2) The ~~tracking period~~ *actual monthly* general revenue . ~~on a per customer basis.~~  
→ ~~The deferred general revenue per customer must be multiplied by the number of customers for the tracking period.~~

(c) ~~The net amount of deferred general revenue for the tracking period calculated pursuant to paragraph (b) must be recorded in a subaccount of FERC Account No. 182.3 and included in the determination of the balance of the subaccount of FERC Account No. 182.3 which is used to calculate the general revenue decoupling adjustment.~~

~~(d)~~ Monthly, a credit entry or debit entry, if negative, for the amortization of the general revenue decoupling adjustment must be recorded in the subaccount of FERC Account No. 182.3.

The amortization amount must be equal to the amount of revenue derived by applying the general revenue decoupling adjustment to the jurisdictional sales of the applicable customer class.

~~(e)~~ (d) The balance of the subaccount of FERC Account No. 182.3 at the end of the tracking period adjusted pursuant to paragraph ~~(d)~~ (c) must be divided by the total sales for the tracking period.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066**  
**Informational Statement**  
**LCB File No. R003-14**

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

The regulation is needed to address issues related to the General Revenues Adjustment (“GRA”) mechanism. Accordingly, the regulation revises Chapter 704 of the Nevada Administrative Code (“NAC”) to address issues related to the GRA mechanism, and other issues related thereto.

**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 regulation, 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” or “Commission”), <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) Comments regarding this matter were filed by the Attorney General’s Bureau of Consumer Protection (“BCP”), Southwest Gas Corporation (“SWG”), and the Regulatory Operations Staff of the Commission (“Staff”). The foregoing participants generally provided comments in response to the Commission’s questions, requests for analyses, and requests for additional information related to the GRA mechanism, and other issues related thereto.

(c) Copies of the transcripts of the proceedings are available for review at the offices of the PUCN at 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: 3**
  - (b) **Testified at each hearing: 3**
  - (c) **Submitted written statements: 3**
  
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.**

Revisions were made to the LCB-revised regulation that reorganizes and deletes some language within the regulation, and adds clarifying language. However, these revisions do not substantively change the LCB-revised regulation, but rather provide additional clarity to certain provisions of the regulation.

**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 is expected to have beneficial immediate and long-term economic effects on the business which it is to regulate, gas utilities, and on small business. Regarding immediate beneficial effects, the proposed regulation calls for faster cost recovery on conservation and energy efficiency (“CEE”) programs, which may reduce overall costs for all ratepayers, with installations necessary to implement the CEE programs likely to benefit small business contractors, as well. Regarding long-term beneficial effects, similar to the foregoing short-term beneficial effects, lower carrying charges could lead to marginally lower rates for small businesses, and the proposed regulation could encourage the implementation of CEE programs, which could use small businesses as CEE installers. The proposed regulation is not expected to create any direct or significant immediate adverse economic effect on gas utilities. Moreover, the proposed regulation does not seem to imply any direct or significant long-term adverse economic effect on gas utilities.

**(b) Estimated economic effect on the public which they are to regulate.**

The regulation does not regulate the public.

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

Any costs associated with the regulation are considered incremental in nature. The Commission and/or Regulatory Operations Staff will spend some time reviewing the information filed as required by the proposed regulation, but the incremental workload will be absorbed by existing Commission resources. At this time, it appears there will be no additional cost to the Commission for the enforcement of the proposed 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 proposed regulation does not overlap or duplicate any federal, state, or local regulation.

- 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
- 12. If the proposed regulation is likely to impose a direct and significant 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 Regulatory Operations Staff (“Staff”) of the Commission conducted a Delphi Method exercise to determine the impact of this proposed regulation on small businesses. The Delphi Method is a systematic, interactive, forecasting method based on independent inputs of selected experts. In this instance, the participants were members of Staff. Each participant in the exercise used his background and expertise to reflect upon and analyze the impact of the proposed regulation on small businesses. Based upon Staff’s analysis, Staff recommended to the Commission that the Commission find that the proposed regulation will not impose a direct and significant economic burden on small businesses or directly restrict the formation, operation or expansion of a small business. The Commission accepted Staff’s recommendation and found that the proposed regulation does not impose a direct or significant economic burden upon small businesses, nor does it directly restrict the formation, operation, or expansion of a small business, and therefore a small business impact statement pursuant to NRS 233B.0608(2) is not required. This finding was memorialized in an Order issued in Docket No. 12-11009 on July 11, 2014.