

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

LCB File No. R078-14

June 30, 2014

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

AUTHORITY: §§1-15 and 22, NRS 703.025 and 704.210; §16, NRS 703.025, 704.110, 704.210 and 704.663; §§17-21 and 23-25, NRS 703.025, 704.210, 704.661 and 704.663; §§26-29, NRS 703.025, 704.110 and 704.210; §30, NRS 703.025, 704.095 and 704.210.

A REGULATION relating to public utilities; providing for the recovery of certain costs by certain public utilities which furnish, for compensation, any water for municipal, industrial or domestic purposes, or services for the disposal of sewage, or both; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the regulation by the Public Utilities Commission of Nevada of certain public utilities that furnish, for compensation, any water for municipal, industrial or domestic purposes, or services for the disposal of sewage, or both. (Chapter 704 of NRS and chapter 704 of NAC) Water and sewage utilities are required to file an application with the Commission for the purpose of recovering certain costs of the utility through its schedule of rates. Water and sewage utilities with an annual gross operating revenue of \$2,000,000 or more for at least 1 year of the immediately preceding 3 years are further required to file a general rate application with the Commission according to a specified schedule. (NRS 704.110) Water and sewage utilities which had an annual gross operating revenue of \$1,000,000 or more for at least 1 year during the immediately preceding 3 years are also required to submit to the Commission a resource plan to provide sufficient water or services for the disposal of sewage to satisfy the demand made on its system by its customers. (NRS 704.661) The Commission is required to adopt regulations governing the submittal, review and contents of rate applications and resource plans filed by such public utilities. (NRS 703.025, 704.110, 704.210, 704.661, 704.663)

Section 16 of this regulation provides for the recovery by water and sewage utilities of certain costs relating to: (1) the anticipated effects of implementing a plan of water conservation, including, without limitation, the anticipated effects of decreased consumption of water by customers of the utility as the result of the implementation of a plan for water conservation or the charging of rates to encourage water conservation; and (2) the provision of service without respect to the difference in the quantity of water actually sold by the utility by taking into

account the adjusted and annualized quantity of water sold during a test year and the growth in the number of customers of the utility.

Sections 17-25 of this regulation provide for the recovery by water and sewage utilities of certain costs relating to improvements to a distribution system or wastewater system through the establishment and recovery of a system improvement rate.

Sections 26-29 of this regulation provide for the preparation and review of certain cost of service studies for the purpose of establishing the rates which may be charged and collected by certain water and sewage utilities.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 29, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 29, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 15, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Carrying costs” means the return on an eligible project or, if applicable, the return on any plant that may be retired as part of the construction of the eligible project, adjusted for accumulated depreciation and accumulated deferred income taxes, utilizing the utility’s authorized pretax rate of return.*

Sec. 4. *“Cost of service” means the average embedded cost of providing water service to a customer class.*

Sec. 5. *“Customer class” means a category of customers identified in the rate schedule of a utility.*

Sec. 6. *“Depreciation expense” means the return on an eligible project or, if applicable, the return on any plant that may be retired as part of the construction of the eligible project, utilizing the utility’s authorized rate of depreciation.*

Sec. 7. *“Distribution system” means distribution mains, valves, hydrants, service lines, meters, meter installations and any other appurtenances which are necessary to transport*

treated water from the point at which the water exits a water production facility to the point at which the water is delivered to a customer.

Sec. 8. *“Eligible project” means an improvement to a distribution system or wastewater system that the Commission designates as being eligible for the recovery of costs through a system improvement rate pursuant to subsection 5 of section 17 of this regulation.*

Sec. 9. *“Eligible project regulatory asset account” or “regulatory asset account” means an account in which a utility records an amount equal to the monthly revenue requirement for one or more new eligible projects, less the revenue the utility receives from an established system improvement rate.*

Sec. 10. *“Large utility” means a utility that had an annual gross operating revenue of \$1,000,000 or more for at least 1 year during the immediately preceding 3 years.*

Sec. 11. *“Resource plan” has the meaning ascribed to it in NAC 704.5654.*

Sec. 12. *“Revenue requirement” means an amount equal to depreciation expense plus carrying costs, less the depreciation expense and carrying costs associated with any plant retired as part of the construction of an eligible project.*

Sec. 13. *“System improvement rate” means a rate established by the Commission pursuant to section 24 of this regulation.*

Sec. 14. *“Utility” means a public utility which furnishes, for compensation, any water for municipal, industrial or domestic purposes, or services for the disposal of sewage, or both.*

Sec. 15. *“Wastewater system” means wastewater mains, lift stations, facilities for wastewater treatment and any other appurtenances which are necessary for the collection of wastewater, treatment of wastewater, reclamation of wastewater and disposal of effluent.*

Sec. 16. 1. A utility may include in an application to make changes in any schedule submitted pursuant to NRS 704.110 a request to recover:

(a) An amount based on the anticipated effects of implementing a plan of water conservation, including, without limitation, the anticipated effects of decreased consumption of water by customers of the utility as the result of the implementation of a plan for water conservation or the charging of rates to encourage water conservation.

(b) The costs of providing service without respect to the difference in the quantity of water actually sold by the utility by taking into account the adjusted and annualized quantity of water sold during a test year and the growth in the number of customers of the utility.

2. A request submitted pursuant to paragraph (a) of subsection 1 must include:

(a) The amount of the requested adjustment identified by customer class, meter size and, if applicable, rate tier;

(b) The requested rates and revenue requirement with and without the requested adjustment;

(c) The 3 most recent years of consumption data by customer class or, if not reasonably available, 3 years of historical consumption data by customer class;

(d) A list of specific water conservation measures and their anticipated effects on water consumption by customer class;

(e) An estimate of nondiscretionary water consumption by customer class;

(f) Any corresponding adjustments to the costs of fuel or power used to pump water and the costs of chemicals used to treat water; and

(g) If the request includes a rate design for the purpose of encouraging water conservation:

(1) The anticipated effect of the rate design on discretionary water consumption by each affected customer class; and

(2) Each basis for any estimate of price elasticity.

3. A request submitted pursuant to paragraph (b) of subsection 1 must include:

(a) A description of the manner in which the utility proposes to decouple the revenues of the utility from the quantity of water sold by the utility, including, without limitation, a description of:

(1) The proposed decoupling methodology;

(2) The manner in which the utility proposes to calculate the authorized revenues that will be used in the proposed decoupling methodology described in subparagraph (1); and

(3) The process by which the utility proposes to report to the Commission the annual reconciliation of the actual revenue of the utility versus the authorized revenue of the utility and to implement the resulting change in rates;

(b) An illustration of the effect on each customer class of the proposal to decouple revenue;

(c) A description of any necessary and corresponding adjustments to the costs of fuel or power used to pump water and the costs of chemicals used to treat water; and

(d) A plan for the education of customers of the utility with respect to the proposal to decouple the revenue of the utility from the quantity of water sold by the utility.

4. A utility may submit a request pursuant to subsection 1 concurrently with a request for the assistance of the Regulatory Operations Staff of the Commission submitted pursuant to NAC 704.622. If the Commission receives such a concurrent request, the Regulatory Operations Staff shall:

(a) For a request submitted pursuant to paragraph (a) of subsection 1:

(1) Assist the utility in analyzing the implementation of any water conservation measures and rate designs to encourage water conservation and the necessity of the requested adjustment.

(2) Include in the draft application prepared pursuant to paragraph (b) of subsection 5 of NAC 704.622 the information submitted pursuant to subsection 2.

(b) For a request submitted pursuant to paragraph (b) of subsection 1:

(1) Assist the utility in identifying any appropriate decoupling methodologies applicable to the utility.

(2) If the Regulatory Operations Staff identifies an appropriate decoupling methodology pursuant to subparagraph (1), include in the draft application prepared pursuant to paragraph (b) of subsection 5 of NAC 704.622 the information submitted pursuant to paragraphs (a), (b) and (c) of subsection 3.

5. If the Commission approves a request submitted pursuant to:

(a) Paragraph (a) of subsection 1:

(1) The Commission may adjust the utility's authorized return on equity, as appropriate, based upon the amount of the approved adjustment.

(2) The approved adjustment is effective until the utility files its next general rate case application pursuant to NRS 704.110.

(b) Paragraph (b) of subsection 1:

(1) The Commission may adjust the utility's authorized return on equity, as appropriate, based upon the decoupling of the revenues of the utility from the quantity of water sold by the utility.

(2) The approved method of decoupling is effective until the utility files its next general rate case application pursuant to NRS 704.110.

(3) The utility shall include a request either to continue or discontinue the approved method of decoupling in the next subsequent general rate case application of the utility.

6. If a request is submitted by a utility pursuant to paragraph (a) of subsection 1, any party to the general rate case application may propose an alternative rate design to encourage water conservation. If a party proposes an alternative rate design pursuant to this subsection, the party shall submit to the Commission the information required by paragraph (g) of subsection 2. The Commission may consider any alternative rate design proposed pursuant to this subsection for the purpose of setting rates.

Sec. 17. 1. A large utility may include in the action plan component of the utility's resource plan submitted pursuant to NRS 704.661 a request to designate a project for an improvement to a distribution system or wastewater system as an eligible project for which a system improvement rate may be established. The project proposed for designation as an eligible project must be a new improvement project that is included in the action plan for which the large utility seeks approval pursuant to NAC 704.5682.

2. A utility that is not required to submit a resource plan pursuant to NRS 704.661 may file an application with the Commission to designate a project for an improvement to a distribution system or wastewater system as an eligible project for which a system improvement rate may be established.

3. A large utility submitting a request pursuant to subsection 1 or a utility submitting an application pursuant to subsection 2 shall include with the request or application:

(a) A description of the project.

(b) A statement explaining the necessity of the project.

(c) The resulting benefits of the project to the utility and the customers of the utility upon the completion of the project.

(d) A statement supported by written testimony that the project is not designed to increase revenues by connecting an improvement to a distribution system or wastewater system to new customers.

(e) A statement that the project was not included in the rate base of the utility in its most recent general rate case.

(f) A statement that the project costs for which recovery will be sought represent an investment to be made by the utility and which will not be paid by another funding source, including, without limitation, a grant, developer contribution or other form of reimbursement.

(g) If submittal to the Commission is not otherwise required by law or regulation, the utility's plan for construction and the proposed schedule for construction. A plan for construction and a proposed schedule for construction submitted pursuant to this paragraph must comply with the provisions of paragraph (a) of subsection 4 of NAC 704.568.

(h) If submittal to the Commission is not otherwise required by law or regulation, a budget of planned expenditures which complies with the provisions of NAC 704.5681.

4. A large utility submitting a request pursuant to subsection 1 shall submit the information required pursuant to subsection 3 in addition to any information otherwise required to be submitted in support of an element of an action plan pursuant to NAC 704.565 to 704.5688, inclusive.

5. The Commission will:

(a) For a request submitted by a large utility pursuant to subsection 1, approve or disapprove the request at the time the Commission makes a determination with respect to the resource plan submitted by the large utility.

(b) For an application submitted by a utility pursuant to subsection 2, approve or disapprove the application not later than 135 days after the Commission receives the application.

6. As used in this section, “action plan” has the meaning ascribed to it in NAC 704.5651.

Sec. 18. 1. A large utility that submits a request pursuant to subsection 1 of section 17 of this regulation or a utility that submits an application pursuant to subsection 2 of section 17 of this regulation shall, not later than 30 days after the date on which the Commission receives the request or application, provide notice of the request or application to each customer of the utility. The notice may be provided directly to each customer as an insert in the bill of charges provided to each customer or by written notice mailed separately from the bill of charges.

2. A notice provided pursuant to subsection 1 must contain:

(a) A brief description of the need for the system improvement rate and an estimate of its amount; and

(b) Information concerning where a customer may obtain from the utility and the Commission additional information with respect to the system improvement rate.

Sec. 19. The Commission will include with the approval of a request submitted by a large utility pursuant to subsection 1 of section 17 of this regulation or an application submitted by a utility pursuant to subsection 2 of section 17 of this regulation an approved budget estimate for the eligible project.

Sec. 20. The calculation for the eligible project regulatory asset account for an eligible project begins on the last day of the month during which the eligible project is placed in service and ends on the date on which the project is accounted for in the rate base of the utility.

Sec. 21. All costs of an eligible project must be accounted for in the books and records of a utility separately from accounts attributable to any other activity. Each regulatory asset account must be maintained in a manner that will allow costs to be readily identified.

Sec. 22. For the purpose of calculating carrying costs, unless otherwise established by the Commission in the utility's general rate case, the authorized rate of return used to calculate the annual revenue requirement for the utility shall be deemed to be 10.2 percent. The authorized pretax rate of return must be calculated by adjusting the weighted average return on equity, which shall be deemed to be 6 percent for federal income taxes. The weighted average return on equity must be calculated using an equity ratio which shall be deemed to be 40 percent and a return on equity which shall be deemed to be 15 percent.

Sec. 23. 1. An application to establish a system improvement rate must be filed not later than 90 days after the completion of an eligible project.

2. An application filed pursuant to subsection 1 must include:

(a) The actual cost of the eligible project and invoices supporting the calculation of the actual cost.

(b) The approved budget for the eligible project provided by the Commission pursuant to section 19 of this regulation.

(c) A calculation of the revenue requirement for each eligible project included in the system improvement rate. The revenue requirement for an eligible project must be calculated

on an annual basis. The monthly revenue requirement is one-twelfth of the annual revenue requirement. The annual revenue requirement initially must be calculated using the information available on the last day of the month during which the eligible project is placed in service.

(d) The proposed system improvement rate to be collected from the customers of the utility. If the eligible project is an improvement to a distribution system, the proposed system improvement rate must be based upon water consumption by each customer class during the 12-month period ending on the last day of the month during which the eligible project was placed in service. If the eligible project is an improvement to a wastewater system, the proposed system improvement rate must be based upon the customer class contribution to total revenues for the 12-month period ending on the last day of the month during which the eligible project was placed in service.

↪ The utility has the burden of proving the reasonableness and prudence of the costs incurred to develop the eligible project.

3. The revenue requirement calculated as part of an application must be recalculated in any subsequent application to establish a system improvement rate submitted pursuant to subsection 1. The revenue requirement must be modified annually in the manner prescribed by section 25 of this regulation.

Sec. 24. 1. *The Commission may approve an application to establish a system improvement rate filed pursuant to section 23 of this regulation for the purpose of recovering:*

(a) The revenue requirement associated with the eligible project for which a utility files the application.

(b) The amortized amount of the balance of the eligible project regulatory asset account for each eligible project included in the system improvement rate as calculated during the 12-month period identified in subsection 3 of section 25 of this regulation.

↳ The Commission may, in establishing a new system improvement rate pursuant to this section, incorporate into the new rate an existing system improvement rate which has previously been approved pursuant to this section and which is currently being recovered by the utility. A utility shall not recover the revenue requirement associated with an eligible project simultaneously from more than one approved system improvement rate.

2. If the Commission approves the application, the Commission may, in consideration of the rate impact on the customers of the utility, limit the revenue requirement which is eligible for recovery through the system improvement rate to the actual prudently incurred costs related to the eligible project or the approved project budget provided by the Commission pursuant to section 19 of this regulation, whichever is less.

3. If the Commission does not approve the application within 120 days after the filing date of the application, the application shall be deemed denied.

Sec. 25. 1. A utility that is charging a system improvement rate shall, on or before April 1 of each year after the establishment of the system improvement rate, file an application recommending continuation of the system improvement rate or an adjustment to the system improvement rate.

2. An application filed pursuant to subsection 1:

(a) Must:

(1) Provide the most current balance in the regulatory asset account for the system improvement rate.

(2) Recommend an adjustment to account for the difference between the actual revenues from the system improvement rate and the uncollected balance of the revenue requirement.

(b) May recommend an adjustment to account for the amortized amount of the reported balance of the regulatory asset account for the system improvement rate. If the utility does not provide a recommendation pursuant to this paragraph, the utility shall provide an explanation for the omission of the recommendation.

3. For any adjustment recommended pursuant to subsection 2:

(a) If the eligible project for which the recommendation is proposed is an improvement to a distribution system, the recommended adjustment to the system improvement rate must be based upon water consumption by each customer class during the 12-month period for which the application is filed.

(b) If the eligible project for which the recommendation is proposed is an improvement to a wastewater system, the recommended adjustment must be based upon the customer class contribution to total revenues for the 12-month period for which the application is filed.

4. If the Commission does not approve the application within 120 days after the filing date of the application, the application shall be deemed denied.

Sec. 26. *The provisions of sections 27, 28 and 29 of this regulation apply only to:*

1. A utility that, with respect to the provision of water or sewer service:

(a) Derives more of its annual gross operating revenue in this State from customers located in counties whose population is 700,000 or more than it does from customers located in counties whose population is less than 700,000;

(b) Provides water or sewer service in a county whose population is 30,000 or more but less than 45,000; and

(c) Had an annual gross operating revenue of \$2,000,000 or more for at least 1 year during the immediately preceding 3 years.

2. The general rate case of a utility filed pursuant to NRS 704.110.

Sec. 27. 1. A utility shall, not less than 45 days before the date on which it files a general rate case application pursuant to NRS 704.110, provide test year data for unadjusted water consumption in an executable format to the Regulatory Operations Staff of the Commission and the Bureau of Consumer Protection in the Office of the Attorney General.

2. The Regulatory Operations Staff or the Bureau of Consumer Protection will, not later than 10 business days after receipt of the data provided pursuant to subsection 1, notify the utility whether the utility must file a cost of service study for each customer class of the utility with the general rate case application of the utility.

3. If a utility receives a notice of requirement from the Regulatory Operations Staff or the Bureau of Consumer Protection pursuant to subsection 2, the utility shall complete the cost of service study and file the results of the study with the general rate case application of the utility.

Sec. 28. The Commission will consider, in establishing the requirements for revenue generated from each customer class that is supplied with water by a utility and in designing the rates for that service:

1. The cost of service to each customer class as determined in a cost of service study conducted pursuant to subsection 3 of section 27 of this regulation.

2. The value of the utility's service to each customer class and to each individual

customer.

3. The ratio of the average demand for service by an individual customer or a customer class to the peak demand for that service during a period specified by the Commission.

4. The need for continuity in the rates.

5. The need for understandable rates.

6. The effects of any alternatives for obtaining revenue from each customer class.

7. The effects of designing rates on:

(a) Conservation.

(b) Efficiency.

(c) Equity.

(d) The operating margin.

(e) The stability of revenues.

(f) The ratio of the average demand on a utility's system to the peak demand on the system during a period specified by the Commission.

Sec. 29. *Any party to a general rate case application may provide an alternative method or methods of analyzing the results of a cost of service study conducted pursuant to subsection 3 of section 27 of this regulation for the purpose of determining the portion of the revenue requirement that may be recovered from each customer class in consideration of the rate impacts on each customer class. The Commission may consider any alternative method provided pursuant to this section for the purpose of setting rates.*

Sec. 30. NAC 704.622 is hereby amended to read as follows:

704.622 1. Except as otherwise provided in subsection 7, a utility may request the assistance of the Regulatory Operations Staff in preparing an application for a general rate

change *or in preparing a request submitted concurrently with an application pursuant to section 16 of this regulation* by submitting a written request for assistance to the Assistant Secretary of the Commission.

2. Not later than 10 days after the Regulatory Operations Staff receives a utility's written request for assistance, the Regulatory Operations Staff shall notify the utility, in writing, of the information the Regulatory Operations Staff requires to make a determination of recommended rates and charges.

3. The Regulatory Operations Staff shall offer to meet with the utility not later than 30 days after the Regulatory Operations Staff receives the written request for assistance. At that meeting, the utility must:

(a) Make arrangements for the Regulatory Operations Staff to examine the books and records of the utility and to inspect the condition of the utility's facilities; and

(b) Except as otherwise provided in this paragraph, provide all the required information identified in the Regulatory Operations Staff's written notice issued pursuant to subsection 2. If the utility does not provide all the required information at the meeting, the utility may provide the required information not later than 15 days after the meeting. If the utility fails to provide the required information, the Regulatory Operations Staff shall notify the utility in writing that no further action will be taken on the request until the information is provided.

4. Following receipt of the required information identified in the Regulatory Operations Staff's written notice issued pursuant to subsection 2 to the utility, the Regulatory Operations Staff shall examine the books and records of the utility and inspect the condition of the utility's facilities.

5. Not later than 90 days after the Regulatory Operations Staff receives the required information identified in the written notice issued to the utility, the Regulatory Operations Staff shall:

(a) Complete the examination and inspection described in subsection 4; and

(b) If, based on the examination and inspection, the Regulatory Operations Staff determines that the rates and charges of the utility need to be changed, prepare, on behalf of the utility, a draft of an application for a general rate change.

6. If the utility elects to proceed with an application for a general rate change, the utility shall file the application, as prepared by the Regulatory Operations Staff or with modifications, with the Commission ~~{within}~~ *not later than* 45 days after receipt of the draft of the application. If the utility files an application that contains modifications to the draft of the application as prepared by the Regulatory Operations Staff, the utility must include with its application an explanation of those modifications, the basis for the modifications, workpapers detailing any modifications to calculations and any other accounting or financial data necessary to explain and justify the modifications.

7. If the utility elects not to proceed with the application, the utility may not make another request for the assistance of the Regulatory Operations Staff for at least 1 year after the date of the previous request for assistance.

8. ~~{The}~~ *Except as otherwise provided in this subsection, the* Commission will issue an order on the application ~~{within}~~ *not later than* 120 days ~~{. However, if}~~ *after receipt of the application. The Commission may, as necessary, extend* the time in which the Commission issues an order on the application ~~{may be extended an additional}~~ *for a period of not more than* 90 days.