

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

LCB File No. R116-15

Effective April 4, 2016

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

AUTHORITY: §§1-20, section 1 of Senate Bill No. 151, chapter 59, Statutes of Nevada 2015, at page 251.

A REGULATION relating to utilities; establishing the required contents of an application for a gas infrastructure expansion activity; authorizing the amendment of a certificate of public convenience and necessity to include an area in a proposed gas infrastructure expansion activity; requiring a public utility to provide certain notices of a gas infrastructure expansion application; establishing certain requirements governing rates and the recovery of certain costs associated with a gas infrastructure expansion activity; requiring a public utility to seek a determination of prudence for certain costs associated with a gas infrastructure expansion activity; requiring a public utility to file certain annual status reports for a gas infrastructure expansion activity; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Public Utilities Commission of Nevada to adopt regulations authorizing a public utility which purchases natural gas for resale to expand the infrastructure of the public utility in a manner consistent with a program of economic development. (Section 1 of Senate Bill No. 151, chapter 59, Statutes of Nevada 2015, at page 251)

Section 15 of this regulation establishes the required contents of a public utility's application for a gas infrastructure expansion activity.

Section 16 of this regulation provides that a public utility may seek to amend its certificate of public convenience and necessity to include an area in a proposed gas infrastructure expansion activity that is not already included within the public utility's certificated service area.

Section 17 of this regulation requires a public utility that files a gas infrastructure expansion application to provide certain notices of the application to certain existing and prospective customers, the Regulatory Operations Staff of the Commission and the Bureau of Consumer Protection in the Office of the Attorney General.

Section 18 of this regulation sets forth certain requirements governing rates and the recovery of certain costs associated with a gas infrastructure expansion activity.

Section 19 of this regulation requires a public utility to seek a determination of prudence for the recorded costs of a gas infrastructure expansion activity in the first general rate application filed after the approval of a gas infrastructure expansion rate which accounts for the recovery of such costs. **Section 19** further prescribes the information relevant to a determination of prudence which must be filed with the general rate application.

Section 20 of this regulation requires a public utility to file an annual status report for each gas infrastructure expansion activity that is authorized by the Commission and sets forth the required contents of such a status report.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 20, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 20, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 14, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Alternative cost-recovery methodology” means a public utility’s methodology for the recovery of gas infrastructure expansion costs that are not economically feasible pursuant to the public utility’s rule for the extension of facilities.*

Sec. 4. *“Direct benefits” means benefits which are quantifiable to the extent possible. Such benefits may include, without limitation, economic benefits, environmental benefits and operational efficiencies, and enhanced reliability of service that customers of a public utility which purchases natural gas for resale who are specifically targeted to be served by the program of economic development may experience as a result of the gas infrastructure expansion activity.*

Sec. 5. *“Gas infrastructure” means infrastructure to be used in the transportation or supply of natural gas, including, without limitation, facilities for the storage, distribution and transmission of compressed natural gas and liquefied natural gas.*

Sec. 6. *“Gas infrastructure expansion activity” means the expansion of gas infrastructure within a geographic area in a manner consistent with a program of economic development.*

Sec. 7. *“Gas infrastructure expansion application” means an application filed by a public utility which purchases natural gas for resale seeking a determination by the Commission for:*

- 1. The authorization of a gas infrastructure expansion activity; and*
- 2. The recovery of gas infrastructure expansion costs.*

Sec. 8. *“Gas infrastructure expansion costs” means all prudent and reasonable costs which are incurred to develop and construct a gas infrastructure expansion activity. The term does not include costs which are otherwise recovered pursuant to the public utility’s rule for the extension of facilities.*

Sec. 9. *“Gas infrastructure expansion rates” means the rates established by the Commission for the purpose of collecting the revenue requirement associated with the gas infrastructure expansion costs.*

Sec. 10. *“Indirect benefits” means benefits which are quantifiable to the extent possible. Such benefits may include, without limitation, economic benefits, environmental benefits and operational efficiencies, and enhanced reliability of service that customers of a public utility which purchases natural gas for resale who are not specifically targeted to be served by the program of economic development may experience as a result of the gas infrastructure expansion activity.*

Sec. 11. *“Program of economic development” has the meaning ascribed to it in section 1 of Senate Bill No. 151, chapter 59, Statutes of Nevada 2015, at page 251.*

Sec. 12. *“Revenue requirement” means an amount equal to depreciation expense and carrying costs, and property taxes once the public utility which offers natural gas for resale incurs the property taxes. As used in this section:*

1. “Carrying costs” means the return on gas infrastructure expansion costs, adjusted for accumulated depreciation and accumulated deferred income taxes, utilizing the public utility’s authorized pretax rate of return.

2. “Depreciation expense” means the return of gas infrastructure expansion costs utilizing the public utility’s authorized rate of depreciation.

Sec. 13. *“Underserved” means a geographic area in which gas infrastructure exists but access is not economically feasible for certain households or businesses.*

Sec. 14. *“Unserved” means a geographic area in which no gas infrastructure or natural gas service exists.*

Sec. 15. *1. A gas infrastructure expansion application must be supported by sworn testimony and must include, without limitation:*

(a) A description of the proposed gas infrastructure expansion activity.

(b) To the extent the proposed gas infrastructure activity seeks to provide natural gas service to an unserved or underserved area, a map generally depicting the unserved or underserved area that the public utility proposes to serve, including the relationship with existing natural gas infrastructure and customers.

(c) An estimate of costs which identifies:

(1) The costs associated with the gas infrastructure expansion activity that are economically feasible pursuant to the public utility’s rule for the extension of facilities; and

(2) The costs that are not economically feasible pursuant to the public utility's rule for the extension of facilities and a description of the proposed alternative cost-recovery methodologies as required in subparagraph (1) of paragraph (f).

(d) The estimated revenue requirement associated with the gas infrastructure expansion activity which is proposed in the application.

(e) An explanation of how the proposed gas infrastructure expansion activity is consistent with a program of economic development, including, without limitation:

(1) Identification of the purposes of the proposed gas infrastructure expansion activity pursuant to subsection 3 of section 1 of Senate Bill No. 151, chapter 59, Statutes of Nevada 2015, at page 251;

(2) Projected demand and supporting materials, as required in subparagraphs (2) and (5) of paragraph (f), for each purpose identified in subparagraph (1); and

(3) Identification of the anticipated direct and indirect benefits, including the areas for each benefit, and an explanation of how the proposed gas infrastructure expansion activity is consistent with the purposes identified in subparagraph (1).

(f) The analysis conducted on the feasibility of the gas infrastructure expansion activity, including, without limitation:

(1) A detailed description of the proposed alternative cost-recovery methodologies, including, without limitation:

(I) The estimated time period for the recovery of such costs;

(II) The projected billing determinants to be used to establish the gas infrastructure expansion rates;

(III) The process for determining when the timely and complete recovery of the revenue requirement has been accomplished by the public utility and the recovery of such costs will end; and

(IV) The treatment of rates for the customers served by the gas infrastructure expansion activity when the recovery of such costs has ended;

(2) A projection of the number of customers, natural gas usage and revenues, by class of customer and class of service, by month over the time period of the proposed alternative cost-recovery methodologies;

(3) The efforts expended by the public utility to identify potential customers in each gas infrastructure expansion activity;

(4) The estimated gas infrastructure expansion rates for each affected class of service;

(5) The economic and financial justification for the gas infrastructure expansion activity; and

(6) The mechanism that the public utility proposes to utilize to collect from customers the cost of natural gas purchased for resale to those same customers:

(I) To whom the natural gas is sold; and

(II) Who are receiving direct benefits as a result of the gas infrastructure expansion activity.

2. The Commission will, not later than 210 days after the date on which a gas infrastructure expansion application is filed, issue a written order approving, disapproving or approving subject to modifications the gas infrastructure expansion application.

Sec. 16. In addition to satisfying the requirements of NAC 703.205, to the extent a proposed gas infrastructure expansion activity includes an area not included within the public

utility's certificated service area, the public utility may seek to amend its certificate of public convenience and necessity as part of its gas infrastructure expansion application but must satisfy the requirements of NAC 703.175.

Sec. 17. *1. A public utility that files a gas infrastructure expansion application pursuant to section 15 of this regulation shall provide written notice of the filing to all existing and prospective customers who may experience direct or indirect benefits as a result of the proposed gas infrastructure expansion activity. The written notice must include:*

(a) The total amount of the increase in the public utility's revenues associated with the gas infrastructure expansion rates, stated in dollars and as a percentage;

(b) The amount of the monthly increase in charges for each affected class of customer or class of service, stated in dollars and as a percentage;

(c) A statement that customers may send written comments or protests regarding the gas infrastructure expansion rates to the Commission;

(d) A statement that the gas infrastructure expansion rates will be reviewed for reasonableness and prudence in the next general rate application filed by the public utility pursuant to NRS 704.110; and

(e) Any other information required by the Commission.

2. A copy of the notice must be provided to the Regulatory Operations Staff of the Commission and to the Bureau of Consumer Protection in the Office of the Attorney General.

3. Notice to prospective customers must be provided through the Internet website of a public utility that files a gas infrastructure expansion application and in a newspaper or newspapers of general circulation in the community where the gas infrastructure expansion activity is proposed.

Sec. 18. 1. *A Commission order authorizing a gas infrastructure expansion activity must adopt alternative cost-recovery methodologies by establishing gas infrastructure expansion rates that allocate the revenue requirement among customers by balancing the interests of customers who will receive direct benefits and customers who will receive indirect benefits from the gas infrastructure expansion activity.*

2. *In adopting the alternative cost-recovery methodologies pursuant to subsection 1, the Commission will consider:*

- (a) The costs associated with the gas infrastructure expansion activity that are economically feasible, as defined in the public utility's rule for the extension of facilities;***
- (b) The costs that are not economically feasible, as defined in the public utility's rule for the extension of facilities;***
- (c) The amounts that will be recovered from customers receiving direct benefits and customers receiving indirect benefits from the gas infrastructure expansion activity;***
- (d) The timely and complete recovery of the revenue requirement by the public utility; and***
- (e) The billing determinants to be used to establish the gas infrastructure expansion rates.***

3. *The public utility shall account for the difference between the revenue requirement actually incurred on the cumulative investment each month in the gas infrastructure expansion costs and the revenue collected through a gas infrastructure expansion rate as a deferred cost.*

4. *If a public utility collects all the deferred revenue requirement through a gas infrastructure expansion rate before the expiration of the time period specified in the gas infrastructure expansion application, the gas infrastructure expansion rate will terminate. A public utility may extend a gas infrastructure expansion rate beyond the time period it is*

proposed to be in effect if necessary to recover any deferred revenue requirement that remains uncollected. A public utility shall notify the Commission of any termination or extension of a gas infrastructure expansion rate at least 60 days before its termination or extension. The termination or extension of a gas infrastructure expansion rate is subject to approval by the Commission.

5. The gas infrastructure expansion rates established pursuant to this section become effective with the public utility's first practicable quarterly rate adjustment following the in-service date of the gas infrastructure expansion activity.

Sec. 19. 1. A Commission order authorizing, denying or modifying a gas infrastructure expansion application is not a determination of prudence with respect to any execution or costs of a gas infrastructure expansion activity that is authorized by the Commission and set forth in such an application.

2. A public utility shall seek a determination of prudence in the first general rate application filed pursuant to NRS 704.110 after the costs of each gas infrastructure expansion activity are accounted for in gas infrastructure expansion rates. In the general rate application, the public utility shall submit evidence in support of the recorded cost for each gas infrastructure expansion activity completed since the last general rate application filed by the public utility, including, without limitation:

(a) Each invoice for gas infrastructure expansion costs, including invoices segregated at the project level if blanket contracts or invoices were used by the public utility;

(b) Each work order for the gas infrastructure expansion activity, including work orders segregated at the project level if blanket contracts or work orders were used by the public utility;

(c) An accounting of the labor performed by outside contractors and the public utility for the gas infrastructure expansion activity undertaken; and

(d) Any other evidence which demonstrates that the incurred costs of the gas infrastructure expansion activity were prudent, just and reasonable.

Sec. 20. 1. *A public utility shall, on an annual basis, file with the Commission a status report for each gas infrastructure expansion activity that is authorized by the Commission. A status report filed pursuant to this subsection must include, without limitation:*

(a) The actual billing determinants and a comparison of those billing determinants to the projected billing determinants used to establish the gas infrastructure expansion rates;

(b) The actual revenues received from customers and a comparison of those revenues to the projected revenues;

(c) The actual gas infrastructure expansion costs and a comparison of those costs to the projected gas infrastructure expansion costs;

(d) An updated projection of all billing determinants, revenues and costs; and

(e) A calculation of the public utility's earned rate of return for the 12-month period ending on the last month of the most recently completed calendar quarter.

2. *A public utility's obligation to file status reports with the Commission pursuant to subsection 1 terminates when the revenue requirement associated with the gas infrastructure expansion activity has been fully recovered by the utility.*

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R116-15

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

The regulation promulgates provisions that establish the contents of an application for a gas infrastructure expansion activity, sets forth provisions regarding the recovery of gas infrastructure expansion costs, and allows a gas utility to seek approval to amend its Certificate of Public Convenience and Necessity to include an area in a gas infrastructure expansion activity that is not already within that utility's certificated service territory.

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 PUCN, <http://puc.nv.gov>, mailed to all county libraries in Nevada, published in the following newspapers:

Ely Times
Las Vegas Review Journal
Nevada Appeal
Reno Gazette Journal
Tonopah Times-Bonanza,

and posted at the following locations:

Public Utilities Commission
1150 East William Street
Carson City, Nevada 89701

Public Utilities Commission
9075 West Diablo Drive, Suite 250
Las Vegas, Nevada 89148

(b) The Attorney General's Bureau of Consumer Protection ("BCP"), Angel DeFazio, Sierra Pacific Power Company d/b/a NV Energy ("Sierra Pacific"), Southwest Gas Corporation ("Southwest Gas"), the Regulatory Operations Staff ("Staff") of the Commission, and Fred Voltz filed comments in the matter. BCP, Sierra Pacific, Southwest Gas, and Staff generally supported the LCB-revised regulation with minor proposed modifications to the regulation, most of which were incorporated in the Commission's adopted regulation. Ms. DeFazio and Mr. Voltz generally disagreed with Senate Bill 151 and the regulation as it was developed by the Commission.

(c) Copies of the transcripts of the proceedings are available for review at the offices of the PUCN, 1150 East William Street, Carson City, Nevada 89701 and 9075 West Diablo Drive, Suite 250, Las Vegas, Nevada 89148.

3. The number of persons who:

(a) Attended each hearing: 4

(b) Testified at each hearing: 4

(c) Submitted written comments: 6

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.**

Proposed revisions to the regulation proposed by BCP and Southwest Gas and agreed upon by Sierra Pacific and Staff were incorporated in the regulation.

7. **The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include: both adverse and beneficial effects, and both immediate and long-term effects.**

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

The regulation does not impose any economic effect on the businesses the regulation is to regulate.

- (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.

9. **A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The regulation does not overlap any other local, State, or Federal regulations.

10. **If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

N/A

11. **If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

N/A

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. 15-05025 on December 23, 2015.