

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

**LCB FILE NO. R055-18I**

**The following document is the initial draft regulation proposed  
by the agency submitted on 03/23/2018**

PROPOSED REGULATION OF  
THE PUBLIC UTILITIES COMMISSION OF NEVADA

Docket Nos. 17-07011 and 17-08023

Explanation – Matter in ***bold italic*** is new; matter in ~~strike through~~ is material to be omitted.

AUTHORITY: NRS 703.025, 704.210, 704.7821, SB 150 (2017), AB 223 (2017)

A REGULATION to implement Senate Bill 150 (2017) and Assembly Bill 223 (2017)

**Section 1.** NAC 704.934 is hereby amended to read as follows:

NAC 704.934 Preparation, contents and submission of demand side plan; annual analyses regarding programs for energy efficiency ~~and conservation~~. (NRS 703.025, 704.210, 704.741)

1. As part of its resource plan, a utility shall submit a ***cost effective*** demand side plan ***that optimizes energy efficiency savings***.

2. The demand side plan must include:

(a) ***Energy efficiency programs designed to meet or exceed the goals set out in NAC 704. XXX.***

(~~a-b~~) An identification of end-uses for programs for energy efficiency ~~and conservation~~.

(~~b-c~~) An assessment of savings attributable to technically feasible programs for energy efficiency ~~and conservation~~, as determined by the utility. The programs must be ranked in a list according to the level of savings in energy or reduction in demand, or both.

(~~e-d~~) An assessment of technically feasible programs to determine which will produce benefits in peak demand or energy consumption. The 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.

3. In creating its demand side plan, a utility shall consider the impact of applicable new technologies on current and future energy efficiency ~~and conservation~~ options. The consideration of new technologies must include, without limitation, consideration of the potential impact of advances in digital technology and computer information systems.

4. A utility shall include in its demand side plan an energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel. The energy efficiency program must include, without limitation, the use of new solar thermal energy sources.

**5. A utility shall include in its demand side plan a proposal of energy efficiency programs with a budget of not less than 5 percent of the total expenditures related to energy efficiency programs directed to low-income customers of the electric utility.**

~~5-6.~~ The demand side plan must provide a list of the programs for which the 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 energy consumption that would result from each proposed program, in kilowatt-hours and kilowatts saved. The programs must be listed according to their expected savings and their contribution to a reduction in peak demand and energy 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. If the program can be relied upon to reduce peak demand on a firm basis, the assessment must include the savings in the costs of transmission and distribution.

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

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

~~6-7.~~ For any energy efficiency or conservation program which reduces the consumption of electricity or any fossil fuel, a utility shall include in its demand side plan a complete life-cycle analysis of the costs and benefits of the program using ~~the Total Resource Cost Test~~. **at least one standard cost effectiveness test that takes into account non-energy benefits.**

~~7-8.~~ The utility shall include with its demand side plan a report on the status of all programs for energy efficiency ~~and conservation~~ that have been approved by the Commission. The report must include tables for each such program showing, for each year, the planned and achieved reduction in kilowatt-hours, the reduction in kilowatts and the cost of the program.

~~8-9.~~ On or before July 1 of each year following the filing of its resource plan, the utility shall file with the Commission a copy of the complete analysis that the utility used in determining for the upcoming year which energy efficiency ~~and conservation~~ programs are to be continued and which programs are to be cancelled. Within 180 days after the analysis is filed, the Commission will accept the analysis as filed, accept the analysis with modification or reject the analysis.

~~9-10.~~ As used in this section:

(a) "New solar thermal energy sources" means energy sources which are installed after the effective date of the utility's energy efficiency program and which reduce the consumption of electricity or any fossil fuel by using solar radiation to heat water or to provide space heating or cooling.

~~— [(b) “Total Resource Cost Test” means a method of determining the overall economic efficiency of a demand management program from the perspective of society by measuring the net costs of the program based on its total costs, including, without limitation, the costs to both participants and the utility.]~~

**Sec. 2** NAC 704.95225 is hereby amended to read as follows:

NAC 704.95225 Recovery of certain amounts based on measurable and verifiable effects of implementation of programs for energy efficiency ~~and conservation~~. (NRS 703.025, 704.210, 704.785)

1. An electric utility may recover an amount based on the measurable and verifiable effects of the implementation by the electric utility of programs for energy efficiency ~~and conservation~~ described in the demand side plan of the electric utility and approved by the Commission pursuant to NAC 704.9494 as part of the action plan of the electric utility. The amount recovered must include:

(a) The costs reasonably incurred by the electric utility in implementing and administering the programs for energy efficiency ~~and conservation~~, which are recovered pursuant to paragraph (a) of subsection 2 of NAC 704.9523; and

(b) An amount equal to the costs reasonably incurred by the electric utility in implementing and administering the programs for energy efficiency ~~and conservation~~ multiplied by the electric utility’s authorized overall rate of return grossed up for taxes applicable to the utility’s equity portion of the authorized rate of return, which is recovered pursuant to paragraph (b) of subsection 2 of NAC 704.9523.

~~— 2. Upon the request of an electric utility or intervening party or upon a motion of the Commission, the Commission may authorize an electric utility to include in the amount recovered pursuant to subsection 1 for programs for energy efficiency or conservation financial incentives to support the promotion of the participation of the customers of the electric utility in programs for energy efficiency or conservation. Financial incentives must be requested on a program-by-program basis.~~

~~3-2.~~ The Commission will consider the effect of any recovery pursuant to this section on the rates of the customers of the electric utility.

**Sec. 3** NAC 704.9523 is hereby amended to read as follows:

1. All costs of implementing programs for energy efficiency ~~and conservation~~ calculated pursuant to paragraph (a) of subsection 2 and the amounts calculated pursuant to paragraph (b) of subsection 2 must be accounted for in the books and records of an electric utility separately from costs and amounts attributable to any other activity. All accounts must be maintained in a manner that will allow costs and amounts attributable to specific programs to be readily identified.

2. An electric utility may, pursuant to subsection 3, recover:

(a) All reasonably incurred costs of implementing programs for energy efficiency ~~and conservation~~ that have been described in the demand side plan of the electric utility and approved by the Commission pursuant to [NAC 704.9494](#) as part of the action plan of the electric utility, including, without limitation, the costs for labor, overhead, materials, incentives paid to customers, advertising, marketing, monitoring and evaluation.

(b) An amount equal to the costs calculated pursuant to paragraph (a) multiplied by the electric utility's authorized overall rate of return grossed up for taxes applicable to the utility's equity portion of the authorized rate of return.

3. To recover the reasonably incurred costs of implementing programs for energy efficiency ~~and conservation~~ calculated pursuant to paragraph (a) of subsection 2 and the amounts calculated pursuant to paragraph (b) of subsection 2, an electric utility must:

(a) Establish and maintain separate subsidiary records of the subaccounts of FERC Account No. 182.3 (Other Regulatory Assets) for each program described in the demand side plan of the electric utility and approved by the Commission pursuant to [NAC 704.9494](#) as part of the action plan of the electric utility. These records must clearly delineate all costs calculated pursuant to paragraph (a) of subsection 2 and amounts calculated pursuant to paragraph (b) of subsection 2 and be maintained by program by month by rate effective period.

(b) At the time the electric utility files an annual deferred energy accounting adjustment application pursuant to subsection 3 of [NRS 704.187](#), apply to the Commission to establish the following period-specific rates:

(1) A prospective base program cost rate which is determined by allocating in the manner approved by the Commission in the most recent general rate case of the electric utility the total cost of programs for energy efficiency ~~and conservation~~ that are described in the demand side plan approved by the Commission. The prospective base program cost rate for a customer class is an amount equal to the cost allocated to that customer class pursuant to this subparagraph divided by the projected kilowatt hour sales for that class for the relevant period.

(2) A deferred program cost rate to clear the period-specific balance over 12 months. The deferred program cost rate is an amount equal to the period-specific balance in the subaccount of FERC Account No. 182.3 for the cost of programs for energy efficiency ~~and conservation~~ divided by the applicable test period kilowatt hour sales.

(c) At the time the electric utility files an annual deferred energy accounting adjustment application pursuant to subsection 3 of [NRS 704.187](#), file a statement that reports the Nevada jurisdictional earned rate of return for each month of the test period for the electric utility. The Nevada jurisdictional earned rate of return must be calculated for each month of the test period on a 12-month average rate base. The statement must be accompanied by all subsidiary schedules, and any adjustments made thereto, necessary to support the calculations.

4. If the Nevada jurisdictional earned rate of return for the last month of the test period reported for an electric utility pursuant to paragraph (c) of subsection 3 exceeds the rate of return

last authorized by the Commission to set rates for the electric utility, the electric utility must, at the time the electric utility files the annual deferred energy accounting adjustment application pursuant to subsection 3 of [NRS 704.187](#):

(a) File a statement that reports calculations of:

(1) The amount of revenue which caused the electric utility to exceed the rate of return last authorized by the Commission;

(2) An adjustment to the amount calculated pursuant to paragraph (b) of subsection 2; and

(3) The carrying charges at a monthly rate of 1/12 of the authorized overall rate of return on the adjustment amount calculated pursuant to subparagraph (2).

(b) Establish a rate of credits for adjustments calculated pursuant to subparagraph (2) of paragraph (a) attributable to each class of service and which are identifiable from the information maintained in accordance with paragraph (a) of subsection 3.

5. An electric utility must:

(a) Record any adjustment calculated pursuant to subparagraph (2) of paragraph (a) of subsection 4 in a subaccount of FERC Account No. 254.

(b) Transfer any balance which remains in the subaccount of FERC Account No. 254 at the end of the amortization period to the appropriate subaccount of FERC Account No. 182.3 for the current period.

(c) Maintain sufficiently detailed information to identify the amount of the adjustment attributable to each class of service.

6. The sum of the adjustment calculated pursuant to subparagraph (2) of paragraph (a) of subsection 4 and any adjustments for carrying charges made to subaccounts of FERC Account No. 182.3 must not exceed the amount of revenue calculated pursuant to subparagraph (1) of paragraph (a) of subsection 4.

7. An electric utility shall account for period-specific costs incurred to implement a program for energy efficiency ~~and conservation~~ calculated pursuant to paragraph (a) of subsection 2, amounts calculated pursuant to paragraph (b) of subsection 2 and revenues received from the period-specific prospective base program cost rate in the following manner:

(a) On a monthly basis, the electric utility shall record in a subaccount of FERC Account No. 182.3 the program costs incurred, amounts calculated pursuant to paragraph (b) of subsection 2 and the revenues received from the prospective base program cost rate for the program for energy efficiency ~~and conservation~~.

(b) The electric 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. If, in any month, the balance in a subaccount of FERC Account No. 182.3 is a debit, an adjustment amount must be calculated in an amount equal to the amount which exceeds the electric utility's last authorized rate of return that was used to set rates for the electric utility or any remainder after the rate of return has been applied to the carrying charge calculation for deferred energy pursuant to [NAC 704.150](#).

**8. To the extent that a rate adjustment mechanism is authorized pursuant to NRS 704.785(1)(b), the provisions of subsections 4 through 6 above do not apply.**

**Sec. 4** Chapter 704 of NAC is hereby amended by adding thereto a new section to read as follows:

***NAC 704.XXX Establishment of goals for energy savings resulting from all energy efficiency programs implemented by an electric utility each year, which must be included in the resource plan filed by electric utilities pursuant to NRS 704.741.***

***1. The goals for gross energy savings resulting from all energy efficiency programs implemented by an electric utility shall average no less than 1.1 percent of forecasted weather normalized sales over the triennial period of 2019 through 2021.***

***2. Thereafter, the Commission shall review goals for energy savings resulting from all energy efficiency programs implemented by an electric utility each year in the triennial integrated resource plan filing.***

***3. The Commission may modify an electric utility's goals for energy efficiency savings by increasing annual goals or by setting additional goals.***

**Sec. 5** Chapter 704 of NAC is hereby amended by adding thereto a new section to read as follows:

***NAC 704. XXX Approval of demand side plan; analyses regarding programs for energy efficiency. (NRS 704. XXX)***

***1. The Commission will approve a demand side plan:***

***(a) That contains energy efficiency programs designed to meet or exceed the goals set forth in NAC 704.XXX or by the Commission.***

***(b) That is cost effective as a whole.***

***(c) That provides that not less than 5 percent of the total expenditures of the utility on approved energy efficiency programs in the energy efficiency plan are directed to low-income customers, if the energy efficiency plan as a whole is cost effective.***

*2. The Commission must include non-energy benefits when evaluating the cost effectiveness of the demand side plan at program and portfolio levels.*

*3. The Commission may approve individual energy efficiency programs that are not cost effective, if the demand side plan as a whole is determined to be cost effective.*