

**PROPOSED TEMPORARY REGULATION OF THE  
PUBLIC UTILITIES COMMISSION OF NEVADA  
(NAC Chapter 704)**

**LCB FILE NO. T007-18P**

**The following document is the temporary regulation proposed  
by the agency submitted on 12/20/2018**

PROPOSED REGULATION OF THE  
PUBLIC UTILITIES COMMISSION OF NEVADA

Docket No. 18-12014

December 14, 2018

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

**Section 1.** NAC 704.8877 is hereby amended to read as follows:

1. Not later than April ~~11~~ 15 of each compliance year, each provider shall submit to the Regulatory Operations Staff and the Bureau of Consumer Protection:

(a) The total number of kilowatt-hours sold by the provider to its retail customers in this State during the most recently completed compliance year. For compliance year 2003, calendar year 2002 shall be deemed to be the most recently completed compliance year for the purposes of this paragraph.

(b) The estimated number of kilowatt-hours that the provider expects to sell to its retail customers in this State during the current compliance year.

(c) The estimated number of kilowatt-hours that the provider must generate, acquire or save from portfolio energy systems or efficiency measures to comply with its portfolio standard for the current compliance year, as calculated by the provider pursuant to subsection 2.

2. To calculate the estimated number of kilowatt-hours that the provider must generate, acquire or save from portfolio energy systems or efficiency measures to comply with its portfolio standard for the current compliance year, the provider must multiply the estimated number of kilowatt-hours that the provider expects to sell to its retail customers in this State during the current compliance year by the required percentage that is set forth pursuant to NRS 704.7821 or 704.78213, as applicable, for the current compliance year.

3. Except as otherwise provided in NRS 704.7828, if the total number of kilowatt-hours that the provider generates, acquires or saves from portfolio energy systems or efficiency measures for the current compliance year is equal to or exceeds the estimated number of kilowatt-hours as calculated by the provider pursuant to subsection 2, the Commission will not impose an administrative fine or take other administrative action against the provider for that compliance year.

**Sec. 2.** NAC 704.8881 is hereby amended to read as follows:

1. Not later than ~~30~~ 90 days after the date on which a provider submits its annual report, the Commission will issue an order stating whether the provider complied with its portfolio standard during the most recently completed compliance year.

2. If the Commission determines that the provider complied with its portfolio standard during the most recently completed compliance year, the Commission will determine whether the provider is authorized to carry forward any excess kilowatt-hours pursuant to NRS 704.7828. If the Commission determines that the total number of kilowatt-hours which the provider generated, acquired or saved from portfolio energy systems or efficiency measures during the most recently completed compliance year exceeded the total number of kilowatt-hours which the provider needed to comply with its portfolio standard for that compliance year:

(a) The Commission will state in its order the number of excess kilowatt-hours which the provider is authorized to carry forward from that compliance year;

(b) The provider may use those excess kilowatt-hours to comply with its portfolio standard for any following compliance year; and

(c) If the provider is a utility provider, the Commission will state in its order the number of excess kilowatt-hours which are:

(1) More than 10 percent but less than 25 percent of the amount of portfolio energy credits projected to be necessary to comply with the portfolio standard for the current compliance year based upon the estimated number of kilowatt-hours the utility provider expects to sell; and

(2) More than 25 percent of the amount of portfolio energy credits projected to be necessary to comply with the portfolio standard for the current compliance year based upon the estimated number of kilowatt-hours the utility provider expects to sell.

3. If the Commission determines that the provider did not comply with its portfolio standard during the most recently completed compliance year, the Commission will:

(a) State in its order the number of kilowatt-hours by which the provider failed to comply with its portfolio standard; and

(b) Issue a notice of noncompliance and schedule a hearing on the matter.

4. At the hearing, the provider has the burden to prove that it complied with its portfolio standard during the most recently completed compliance year.

5. Except as otherwise provided in NAC 704.8831 to 704.8899, inclusive, if, after the hearing, the Commission determines that the provider did not comply with its portfolio standard during the most recently completed compliance year, and the Commission has not exempted the provider pursuant to NRS 704.7821 or 704.78213, the Commission will:

(a) Proceed pursuant to NRS 704.7828; and

(b) In any order requiring a provider to carry forward a deficiency, set forth the terms and conditions for resolution of the deficiency, except that a deficiency will not be applied to any determination of compliance with the portfolio standard set forth in NRS 704.7821 or 704.78213, as applicable, for subsequent compliance years.

6. While resolving any deficiency, a provider shall continue to meet its portfolio standard for the current compliance year.

7. In determining whether to impose an administrative fine or take other administrative action against the provider, the Commission will consider whether the provider should have built its own renewable energy systems to comply with its portfolio standard.

8. If a utility provider sells any portfolio energy credits pursuant to paragraph (b) or (c) of subsection 2 of NRS 704.7828 in any calendar year in which the Commission determines that the utility provider did not comply with its portfolio standard and the sale caused the utility provider not to comply with its portfolio standard, the Commission will not impose an administrative fine on the utility provider if the requirements of subsection 5 of NRS 704.7828 are satisfied.

9. If the Commission imposes an administrative fine that is assessed against a provider on each kilowatt-hour by which the provider failed to comply with its portfolio standard, the Commission will calculate the administrative fine, on a per kilowatt-hour basis:

(a) For a utility provider, in an amount that is not less than the difference between the just and reasonable average cost per kilowatt-hour to acquire or save electricity pursuant to renewable energy contracts or energy efficiency contracts and the overall average cost per kilowatt-hour to generate, acquire and save electricity that is incurred by the utility provider.

(b) For a nonutility provider, in an amount that is not less than the difference between the just and reasonable average cost per kilowatt-hour to acquire or save electricity pursuant to renewable energy contracts or energy efficiency contracts and the overall average cost per kilowatt-hour to generate, acquire and save electricity that is incurred by a utility provider designated by the Commission.