

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

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**The following document is the initial draft regulation proposed
by the agency submitted on 10/14/2019**

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

Docket No. 19-06009

October 14, 2019

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

AUTHORITY: NRS 703.025, 704.210, 704.7821, SB 329 (2019)

A REGULATION to implement Senate Bill 329 (2019)

Section. 1. Chapter 704 is hereby amended by adding thereto the provisions set forth as Sections 1 and 21, inclusive, of this regulation.

Sec. 2. NAC 704.XXX “Critical fire weather conditions” are defined as a combination of weather and fuel conditions that are ideal for wildland fire combustion and rapid spread.

Sec. 3. An “ignition event” is defined as electric utility infrastructure starting a fire or scorching combustible material.

Sec. 4. A “natural disaster” is defined as any natural catastrophe, including but not limited to wind, wildfire, storm, high water, earthquake, avalanche, landslide, mudslide, or heat wave.

Sec. 5. Pursuant to Senate Bill 329 (2019), Section 1.3, Subsection 1, the natural disaster protection plan required to be submitted by an electric utility shall be filed on or before March 1, 2020, and every 3 years thereafter. Nevada Power Company and Sierra Pacific Power Company may file a joint plan.

Sec. 6. The Commission will issue a final decision approving a natural disaster protection plan filed pursuant to Section 5 of this regulation no later than 180 days following the date of the filing.

Sec. 7. An electric utility may include a request for expedited treatment of an element of the natural disaster protection plan, if the electric utility will need additional time to implement the element prior to the next fire season.

Sec. 8. An electric utility may file an amendment to a natural disaster protection plan at any time prior to the triennial filing required pursuant to Section 5 of this

regulation. Nothing in this regulation shall be construed to prevent another person from seeking, through the filing of a petition with the Commission, a modification to a natural disaster protection plan prior to the utility's required triennial review filing pursuant to Section 5 of this regulation.

Sec. 9. On or before September 1 of the first and second years after the natural disaster protection plan is filed, the electric utility may file an update that will be applicable for each year remaining in the period covered by the natural disaster protection plan.

Sec. 10. Pursuant to Senate Bill 329 (2019), Section 1.3, Subsection 7, the Commission shall review a natural disaster protection plan submitted by a rural electric cooperative. The Commission shall issue an advisory opinion on the natural disaster protection plan filed by a rural electric cooperative within 150 days.

Sec. 11. An electric utility shall identify how each element of the natural disaster protection plan is expected to reduce (1) ignition events in high and extreme fire risk areas during critical fire weather conditions and (2) equipment damage and loss of power caused by a natural disaster. The electric utility shall include a cost/benefit analysis for each element of its natural disaster protection plan.

1. The electric utility's natural disaster protection plan shall include a summary of the 3-year projected budget, the projected cost elements of the plan, and the projected cost for each element.

2. If Nevada Power Company and Sierra Pacific Power Company file a joint natural disaster protection plan, the joint plan shall include the utilities' proposed joint and direct allocation of the costs between retail service areas.

Sec. 12. The natural disaster protection plan shall include the following elements:

1. Description of a risk based approach to identify areas that are prone to different natural disaster types and also identify potential threats in the foreseeable future, including identification of areas within the service territory of the electric utility that are subject to a heightened threat of a fire or other natural disasters.

2. Description of the preventive strategies and programs (including operational practices, inspections and corrections, system hardening, etc.) to be adopted by the electric utility to minimize the risk of its electrical lines and equipment causing catastrophic wildfires including consideration of dynamic climate change and other natural disaster risks.

3. Description of the metrics the electric utility plans to use to evaluate the natural disaster protection plan's performance and the assumptions that underlie the use of those metrics.

4. The threshold criteria for deenergization of portions of the electric

distribution and transmission system due to a natural disaster that considers the associated impacts on public safety.

5. The protocols the electric utility plans to use for disabling reclosers and deenergizing portions of the electrical distribution and/or transmission system that consider the associated impacts on public safety, as well as protocols related to mitigating the public safety impacts of those protocols including impacts on critical first responders and on health and communication infrastructure.

6. A description of the procedures/protocols the electric utility intends to use to restore its distribution and transmission system in the event of deenergization.

7. Communication plan related to public safety outage management, which includes communication specific plans to customers, stakeholders and communication infrastructure providers. Prior to filing a natural disaster protection plan, each electric utility shall meet with the communication infrastructure providers in an effort to develop a mutually agreeable plan for public safety outage management notification protocols and format.

8. Description of the standard for vegetation management and, if this standard exceeds any other vegetation management standard outlined in statute or regulation, how and why the standard exceeds the current requirements.

9. Description of the standard for patrols and detailed inspections and, if this standard exceeds any other patrols and detailed inspections standard outlined in statute or regulation, how and why the standard exceeds current requirements.

10. Description of the actions the electric utility will take to ensure its system will achieve a reasonable level of safety, reliability, and resiliency, and to ensure that its system is prepared for a natural disaster event, including vegetation management, patrols, inspections, testing, hardening and modernizing its infrastructure with improved engineering, system design, standards, equipment, and facilities, such as undergrounding, insulation of distribution wires, pole replacement etc. The utility shall use prudent utility practices for utility design, operating practices and telecommunications to prevent its infrastructure from causing a fire and to maintain resiliency during a natural disaster.

11. Explanation that the electric utility has an adequate sized and trained workforce to execute the natural disaster protection plan and promptly restore service after a major event, taking into account employees of other utilities pursuant to mutual aid agreements and employees of entities that have entered into contracts with the electric utility.

12. Description of how the natural disaster protection plan is consistent with the electric utility's emergency response plan.

13. Description of the processes and procedures the electric utility will use to monitor and audit the implementation of the natural disaster protection plan and take corrective actions for deficiencies identified.

14. Description of the electric utility's participation, including without limitation

in any commitments made, in any community wildfire protection plans, as defined in 16 U.S.C. §6511, established in this State.

Sec. 13. For each element of the natural disaster protection plan, the electric utility will include a section describing what input was provided by each fire protection district covered by the natural disaster protection plan, the office of emergency management for each county covered by the natural disaster protection plan, the Nevada Department Conservation and Natural Resources, Divisions of Forestry, State Lands, and State Parks, and the Nevada Department of Public Safety, Division of Emergency Management.

Sec. 14. An electric utility shall include in its natural disaster protection plan annual data tracking trends associated with ignition events. Data shall be separated for ignition events during critical fire weather conditions and during all other days in high and extreme fire risk areas and separated for the involvement of transmission or distribution infrastructure.

Sec. 15. An electric utility shall include in its natural disaster protection plan annual data tracking trends associated with equipment damage and loss of power caused by natural disasters.

Sec. 16. Each electric utility shall file a monthly report with the Commission. The monthly report shall include comprehensive data on the cause of ignition events as determined by the fire officials responsible for jurisdiction in both extreme and elevated fire risk areas.

Sec. 17. Within 24 hours of any public safety outage management or proactive de-energization event or any wildfire caused by an electric utility's infrastructure that burns an area greater than 1 acre, the electric utility shall file a notice with the Commission that an event occurred. The electric utility shall file a full report describing the event with the Commission within 30 days.

Sec. 18. Pursuant to Senate Bill 329 (2019), Section 1.3, Subsection 6, on or before March 1 of each year, an electric utility shall file an application for cost recovery of all prudent and reasonable expenditures made by the electric utility to develop and implement its natural disaster protection plan. All reasonable and prudent costs associated with executing and administering the natural disaster protection plan must be tracked separately and accounted for in the books and records of the electric utility. The Commission will issue a final decision on the application no later than 180 days following the date of the filing.

Sec. 19. 1. For new capital projects constructed or acquired and owned by an electric utility pursuant to a natural disaster protection plan and budget approved by the Commission every three years, the utility may create a regulatory asset or liability account at the time it is placed into operation.

2. Within such regulatory asset or liability account, the utility may begin calculating and recording the following returns the month after the asset has been placed into plant in service:

(a) A return-on-investment at the most recently authorized pretax rate of return on the net plant balance (cost, less accumulated depreciation, less accumulated deferred income taxes) of the capital project constructed or acquired and owned; and

(b) The capital projects, and the returns recorded in Subsection 2(a) will be separately identified and excluded from a general rate case.

3. Also, within such regulatory asset or liability account, but separately delineated, the utility may begin calculating and recording the following:

(a) Depreciation expense related to the capital projects included in Section 12, Subsection 2;

(b) The actual incremental monthly operations and maintenance costs incurred for the natural disaster protection plan;

(c) Carrying charges on the amounts recorded in Subsection 3(b) at the most recently authorized rate of return; and

(d) The amounts recorded in Subsections 3(a) through 3(c) will be separately identified and excluded from a general rate case.

4. The utility shall submit the regulatory asset or liability account to the Commission in an annual filing necessary to clear the prior year's accumulated balance. The utility shall include in the request for recovery:

(a) A proposed period for recovery and amortization of the regulatory asset or liability that ensures that the utility does not recover more than the actual accumulated balance;

(b) A detailed reconciliation of the balance requested for recovery to the approved budget items, showing carrying charges separately; and,

(c) Proposed rate design and rates by customer class for the annual recovery of the previous year's balance in a separate line item on the customer's monthly bill.

Sec. 20. Pursuant to Senate Bill 329 (2019), Section 1.7, Subsection 3, if an electric utility utilizes any person who is not an employee of an electric utility to perform tree trimming related to line clearance in an easement or right-of-way dedicated or restricted for use by an electric utility shall file an application with the Commission. The application must include:

1. The name of the applicant.

2. The current telephone number, mailing address, electronic mailing address, and a physical street address of the applicant.

3. A copy of each business license and certificate issued by this State and any local government within this State authorizing the applicant to conduct business in this State.

4. Documentation demonstrating that tree trimming will be performed under the direction of an arborist certified by the International Society of Arboriculture.

Sec. 21. If an electric utility utilizes a person not employed by the electric utility to perform tree trimming related line clearance in an easement or right-of-way dedicated or restricted for use by an electric utility, the electric utility shall maintain records confirming that (1) the person has been authorized to perform tree trimming by the Commission, and (2) the person performs the tree trimming under the direction of an arborist certified by the International Society of Arboriculture.