

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
SECOND AMENDED Informational Statement
LCB File No. R085-19

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

The regulation amends Nevada Administrative Code (“NAC”) Chapter 704 and pertains to the prevention of natural disasters, including wildfires, and prescribes requirements relating to natural disaster protection plans (“NDPP”) of certain electric utilities. Existing law requires that an electric utility, on or before June 1, 2020, and on or before June 1 of every third year thereafter, submit an NDPP to the Public Utilities Commission of Nevada (“Commission”).

The regulation implements Senate Bill 329 (2019), which requires electric utilities to submit to the Commission an NDPP.

Sections three through six of the proposed regulation define “critical fire weather conditions,” “ignition event,” “natural disaster,” and “natural disaster protection plan.”

Section seven requires an electric utility to, on or before March 1 of every third year, submit an NDPP to the Commission, provides for joint utilities affiliated through common ownership to file a joint natural disaster plan, and permits an NDPP to be an amended version of a previous plan. Section seven also outlines the details and requirements that must be included in an NDPP. Section seven includes requirements related to Public Safety Outage Management events, vegetation management standards, and protocol requirements to ensure an electric system’s reasonable level of safety, reliability, and resiliency in the event of a natural disaster.

Section eight of the regulation outlines treatment of an expedited element of an NDPP, the timeframe permitted for the Commission to approve an NDPP, requests by an electric utility to amend an NDPP, and persons who may petition the Commission for modification of an NDPP. Section eight provides that the Commission will issue an order approving or modifying an NDPP not later than 180 days after the date on which the plan was submitted. Section nine relates to rural electric cooperatives and provides that the Commission shall issue an advisory opinion when concerning an NDPP submitted by a rural electric cooperative not later than 150 days after the date on which the plan is submitted. Section ten permits an electric utility, on or before September 1 of the first and second years, to file a progress report concerning the NDPP that will apply to each year remaining for the period covered by the NDPP.

Section 11 relates to ignition events and reporting requirements for various events. Section 11 requires that an electric utility submit a monthly report to the Commission consisting of comprehensive data concerning the cause of each event occurring in the service territory of the electric utility during the immediately preceding month that: a) was determined by the agency responsible for fire protection in the area where the event occurred to be an ignition event; and b) took place in an extreme fire risk area or high fire risk area. Section 11 also imposes reporting requirements regarding outages initiated to preserve public safety,

proactive de-energization events, and wildfires caused by utility infrastructure that burn more than an acre of land.

Section 12 relates to NDPP accounting and requires an electric utility to separately track and account for all prudent and reasonable expenditures made by the electric utility to develop and implement the NDPP. Section 12 also requires that on or before March 1 of each year, an electric utility shall submit to the Commission an application to recover the cost of prudent and reasonable expenditures made by the electric utility during the immediately preceding year to develop and implement the NDPP. Section 12 provides that the Commission will issue a final decision on the application not later than 180 days after the date on which the application was submitted.

Section 13 details the construction or acquisition of a capital project owned by the electric utility pursuant to the NDPP and requires that the electric utility create a regulatory asset or liability account for the capital project. Section 13 outlines how the electric utility shall calculate and record in the account a return on investment, depreciation expenses related to the capital projects included in the NDPP, actual incremental monthly operations and maintenance costs incurred to carry out the NDPP and carrying charges on the costs.

Section 14 details the process for an electric utility to apply for authorization from the Commission to utilize a person, who is not employed by the electric utility, to perform tree trimming. Section 14 also imposes certain record keeping requirements on electric utilities that utilize a person who is not an employee to perform tree trimming.

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

Ely Times
Las Vegas Review Journal
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"), Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy (together, "NV Energy"), the Regulatory Operations Staff of the Commission, Nevada Bell

Telephone Company d/b/a AT&T Nevada and AT&T Wholesale and New Cingular Wireless PCS, LLC (together, "AT&T"), Central Telephone Company d/b/a CenturyLink and CenturyTel of the Gem State, Inc. d/b/a CenturyLink (together, "CenturyLink") and Nevada Rural Electric Association ("NREA") filed comments and participated in the workshop and hearing held pursuant to NRS 233B.061. All workshop and hearing participants supported the proposed regulation.

(c) Copies of the transcripts of the proceedings are available for review at the offices of the Commission, 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 the December 20, 2019, Hearing: 6**
- (b) Testified at the December 20, 2019, Hearing: 6**
- (c) Submitted written comments: 16**

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.**

Michael Saunders
(702) 486-3490
8945 West Russell Road, Suite 204
Las Vegas, Nevada 89148-1226
msaunders@ag.nv.gov
Bureau of Consumer Protection

Michael Greene
Justina Caviglia
(775) 473-6998
6100 Neil Road
P.O. Box 10100
Reno, Nevada 89520
mgreene@nvenergy.com
jcaviglia@nvenergy.com
Nevada Power Company d/b/a NV Energy
Sierra Pacific Power Company d/b/a NV Energy

David Noble
(775) 684-7583
1150 East William Street
Carson City, Nevada 89448
davidnoble@puc.nv.gov
Regulatory Operations Staff of the Commission

Mora Snyder
333 Rainbow Canyon Blvd.
Las Vegas, Nevada 89124-9185

Hunter Stern
Jeremy Newman
(415) 517-0318
3520 Boulder Highway
Las Vegas, Nevada 89121
HLS5@ibew1245.org
frog@ibew396.org
International Brotherhood of Workers Local Union 396 and International Brotherhood of
Workers Local 1245

Cort Ancman
(702) 283-7110
232 Alpine Way
Las Vegas, Nevada 89124
Ancman1881881@hotmail.com

Cynthia Manheim
(425) 602-0197
16331 NE 72nd Way
Redmond, Washington 98052
Cindy.manheim@att.com
Nevada Bell Telephone Company d/b/a AT&T Nevada and AT&T Wholesale and New
Cingular Wireless PCS, LLC (together, "AT&T")

Steve Teshara
(775) 588-1728 ext. 301
169 US Highway 50
Stateline, Nevada 89449
steve@tahoechamber.org
Tahoe Chamber Board of Directors

Mike Eifert
(775) 827-0191
P.O. Box 34449

Reno, Nevada 89533-4449
Mike.eifert@nevtelassn.org
Nevada Telecommunications Association
Linda Stinar
(702) 244-7318
6700 Via Austi Parkway
Las Vegas, Nevada 89119
Linda.c.stinar@centurylink.com
Central Telephone Company d/b/a CenturyLink and CenturyTel of the Gem State, Inc.
d/b/a CenturyLink (together, "CenturyLink")

Jesus G. Roman
15505 Sand Canyon Avenue
Irvin, California 92618
Jesus.g.roman@verizon.com
Cellco Partnership d/b/a Verizon Wireless ("Verizon")

Benjamin Aron
Matthew DeTura
(202) 736-3683
1400 16th Street NW, Suite 100
Washington, D.C. 20036
baron@ctia.org
CTIA—The Wireless Association

Steven Tackes, Esq.
(775) 884-8300
510 West Fourth Street
Carson City, Nevada 89703
stackes@kcnvlaw.com
Charter Fiberlink NV-CCVII, LLC ("Charter")

Margret Tobias
(415) 641-7833
460 Pennsylvania Avenue
San Francisco, CA 94107
marg@tobiaslo.com
Cox Nevada Telcom, LLC ("Cox")

Jesse Wadhams
James Wadhams
(702) 869-8801
10777 W. Twain Ave., Ste. 300
Las Vegas, Nevada 89135
jessewadhams@blacklobello.law
Nevada Rural Electric Association

Allan O'Connor
723 Burgundy Road
Incline Village, NV 89451
Al.oconnor@723burgundy.com

5. A description of how comments were 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.

The participants in the 233B workshop and hearing made clarifying changes to the proposed regulation that all participants agreed to and that the Commission ultimately adopted. The clarifying revisions were presented at the December 19, 2019 233B workshop and were agreed upon at the December 20, 2019 233B hearing.

Prior to adoption, the Commission held three formal workshops and one informal workshop in which the interested participants worked amongst themselves and provided consensus language, areas of disagreement, draft regulations and status updates to the Commission. Comments were solicited from interested participants from June 26, 2019 until December 31, 2019.

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.

Immediate Adverse Effect:

The regulation does not impose any immediate adverse economic effect on the businesses the regulation is to regulate; however, electric utilities will incur costs associated with preparing and implementing NDPPs every three years and when it seeks to amend its NDPP.

Immediate Beneficial Effects:

The regulation does not impose any immediate beneficial economic effect; however, requiring electric utilities to develop and implement NDPPs may result in the reduction of the threat of wildfires in extreme fire weather.

Long-Term Adverse Effects:

The electric utility will incur costs associated with preparing and implementing the NDPPs.

Long-Term Beneficial Effects:

The proposed regulation will not have any direct long-term beneficial effect on the business which it is to regulate; however, requiring electric utilities to develop and implement NDPPs may result in more reliable electric service as a result of system hardening against natural disasters. System hardening against wildfires may also reduce the liabilities of electric utilities for any damages that would have otherwise been caused by wildfires started by the electric utility infrastructure—such liability costs would have otherwise been potentially passed on (in part) to the consumer.

(b) Estimated economic effect on the public which they are to regulate.

The regulation does not regulate the public.

Immediate Adverse Effect:

Indirectly, the public may have to operate without power if it is located in areas subject to power shut-offs during extreme fire weather events. Any indirect immediate adverse effects will be a result of SB 329, not the proposed regulation.

Immediate Beneficial Effects:

Indirectly, the public located in extreme fire zones may see a reduction in the threat of wildfires.

Long-Term Adverse Effects:

Indirectly, the public may have to operate without power if it is located in areas subject to power shut-offs during extreme fire weather events.

Long-Term Beneficial Effects:

Indirectly, persons located in extreme fire zones may see a reduction in the threat of wildfires. Any indirect long-term beneficial effect will be a result of SB 329, not the proposed regulation.

8. The estimated cost to the agency for enforcement of the proposed regulation:

Any costs associated with the regulation are considered incremental in nature. The Commission may incur on-going administrative costs to periodically review NDPP filings and the annual applications for cost recovery of all prudent and reasonable expenditures made by electric utilities to develop and implement an NDPP.

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 State, governmental agency, 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?**

Staff 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 their 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 Commission Docket No. 19-06009 on December 18, 2019.