

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

LCB File No. R085-19

October 23, 2019

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

AUTHORITY: §1, sections 1.3 and 1.7 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at pages 555-56 and NRS 703.025 and 704.210; §§2-12, section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555 and NRS 703.025 and 704.210; §13, section 1.7 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 556, and NRS 703.025 and 704.210.

A REGULATION relating to the prevention of natural disasters; prescribing requirements relating to natural disaster protection plans of certain electric utilities; requiring an electric utility to report certain information to the Public Utilities Commission of Nevada; authorizing an electric utility to create a regulatory asset or liability account for certain capital projects; prescribing requirements relating to the use of certain persons to perform tree trimming for an electric utility; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires an electric utility to, on or before June 1, 2020, and on or before June 1 of every third year thereafter, submit a natural disaster protection plan to the Public Utilities Commission of Nevada. A natural disaster protection plan is generally required to contain certain information, procedures and protocols relating to the efforts of the electric utility to prevent or respond to a fire or other natural disaster. (Section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555) **Sections 2-6** of this regulation define terms relating to natural disaster protection plans. **Section 7** of this regulation authorizes an electric utility to request expedited treatment of an element of a natural disaster protection plan if the utility requires additional time to implement the element before the next fire season. **Section 7** additionally prescribes processes for: (1) the approval or modification of a natural disaster protection plan after submission; and (2) the amendment or modification of a natural disaster protection plan after its approval.

Existing law authorizes a rural electric cooperative to submit a natural disaster protection plan to the Commission for the purpose of obtaining advice and recommendations. (Section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555) **Section 7** provides that the Commission will issue an advisory opinion on a natural disaster protection plan submitted by a rural electric cooperative not later than 150 days after the date of submission.

Section 8 of this regulation: (1) authorizes two or more commonly owned electric utilities that have an interconnected system for the transmission of electricity to submit a joint natural disaster protection plan; (2) prescribes the date by which an electric utility is required to submit a natural disaster protection plan to the Commission. **Section 8** also prescribes: (1) items, in addition to those required by statute, that must be included in a natural disaster protection plan; and (2) additional requirements relating to items required by statute to be included in a natural disaster protection plan. Finally, **section 8** requires an electric utility to use prudent practices commonly used in the utility industry to prevent fires and maintain resiliency during a natural disaster. **Section 9** of this regulation authorizes an electric utility to file a progress report concerning its natural disaster protection plan. **Section 10** of this regulation requires an electric utility to report to the Commission certain information relating to fires and other natural disasters and public safety.

Existing law requires an electric utility to recover all prudent and reasonable expenditures to develop a natural disaster protection plan as a separate monthly rate charged to customers. (Section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555) **Section 11** of this regulation requires an electric utility to: (1) separately track and account for those expenditures in its books and records; and (2) annually submit to the Commission a request to recover the cost of those expenditures. **Section 12** of this regulation authorizes an electric utility to create a separate regulatory asset or liability account for a new capital project constructed or acquired by and owned by the electric utility pursuant to a natural disaster protection plan. If an electric utility maintains such an account, **section 12** requires the utility to obtain the approval of the Commission annually before obtaining recovery for the balance of the account accrued during the previous year.

Existing law prohibits a person from performing tree trimming related to line clearance in an easement or right-of-way dedicated or restricted for use by an electric utility unless the person: (1) is a qualified electrical worker; or (2) is not an employee of the electric utility, is approved by the Commission and works under the direction of an arborist certified by the International Society of Arboriculture. (Section 1.7 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 556) **Section 13** of this regulation prescribes the requirements for an application for approval by the Commission of a person who is not an employee of the electric utility. **Section 13** also requires an electric utility that utilizes such an approved person to perform tree trimming to maintain documentation of compliance with statutory requirements.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 13, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Critical fire weather conditions” means a combination of weather and fuel conditions that are ideal for the ignition and rapid spread of wildfires.*

Sec. 4. *“Ignition event” means the ignition of a fire or the scorching of combustible material by electric utility infrastructure.*

Sec. 5. *“Natural disaster” means any natural catastrophe, including, without limitation, wind, wildfire, storm, high water, earthquake, avalanche, landslide, mudslide or heat wave.*

Sec. 6. *“Natural disaster protection plan” means a natural disaster protection plan submitted to the Commission pursuant to section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555.*

Sec. 7. 1. *If an electric utility will require additional time to implement an element of a natural disaster protection plan before the next fire season, the electric utility may request expedited treatment of that element.*

2. *The Commission will issue an order approving or modifying a natural disaster protection plan not later than 180 days after the date on which the plan was submitted.*

3. *At any time after a natural disaster protection plan has been approved and before the date on which a new plan must be submitted pursuant to section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555:*

(a) An electric utility may submit to the Commission a request to amend a natural disaster plan; and

(b) Any person may petition the Commission for the modification of a natural disaster protection plan.

4. *The Commission will issue an advisory opinion concerning a natural disaster protection plan submitted by a rural electric cooperative pursuant to subsection 7 of section*

1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555, not later than 150 days after the date on which the plan is submitted.

Sec. 8. 1. An electric utility shall, on or before March 1, 2020, and on or before March 1 of every third year thereafter, submit a natural disaster protection plan to the Commission. Two or more electric utilities that are affiliated through common ownership and that have an interconnected system for the transmission of electricity may submit a joint natural disaster protection plan. A natural disaster protection plan may be an amended version of a previous plan.

2. In addition to the elements required by section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555, a natural disaster protection plan must include:

(a) For each element of the natural disaster protection plan:

(1) A description of the manner in which the element is expected to reduce:

(I) Ignition events in areas with a high or extreme risk of fire during critical fire weather conditions; and

(II) Damage to equipment and loss of power caused by a natural disaster;

(2) A cost-benefit analysis for the element; and

(3) The input relating to the element that has been provided by:

(I) Each fire protection district in the service territory of the electronic utility that is covered by the plan;

(II) The office of emergency management for each county covered by the plan;

(III) The Division of Forestry, Division of State Lands and Division of State Parks of the State Department of Conservation and Natural Resources; and

(IV) The Division of Emergency Management of the Department of Public Safety;

(b) A summary of the projected 3-year budget for the natural disaster protection plan, a list of the elements of the plan that are expected to have a cost and the projected cost of those elements;

(c) If two or more electric utilities submit a joint natural disaster protection plan pursuant to subsection 1, the proposed manner in which the electric utilities plan to allocate costs between the service territories of the electric utilities;

(d) An identification of areas within the service territory of the electric utility that are prone to different types of natural disasters or may be prone to natural disasters in the future, including, without limitation, areas described in paragraph (a) of subsection 2 of section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555, a description of the natural disasters to which those areas are or may be prone and a description of the manner in which those areas were identified using a risk-based approach;

(e) A description of the metrics that the electric utility plans to use to evaluate the performance of the natural disaster protection plan and the assumptions upon which those metrics are based;

(f) Specific plans for communicating matters relating to power outages to customers, providers of communication infrastructure and other interested persons as necessary to ensure public safety, which must:

(1) Be developed in consultation with providers of communication infrastructure; and

(2) Include, without limitation, the format of and protocols for the communication;

(g) A description of the actions that the electric utility will take to ensure that its system will be reasonably safe, reliable and resilient and is prepared for a natural disaster, including, without limitation, vegetation management, patrols, inspections, testing and use of improved

engineering, system design, standards, equipment and facilities to harden and modernize infrastructure;

(h) An explanation of the measures the electric utility will take to ensure that its workforce, including, without limitation, employees of entities with which the electric utility has entered into contracts and employees of other electric utilities with which the electric utility has entered into a mutual aid agreement, has adequate size and training to execute the natural disaster protection plan and promptly restore service after a natural disaster;

(i) A description of the processes and procedures that the electric utility will use to monitor and audit the implementation of the natural disaster protection plan and to take actions to correct any deficiency that is identified; and

(j) Data for at least the immediately preceding year that tracks trends associated with:

(1) Ignition events, separated according to whether the ignition events occurred during critical fire weather conditions, whether the ignition events occurred during any type of condition in high or extreme fire risk areas and whether the ignition events involved transmission or distribution infrastructure; and

(2) Damage to equipment and loss of power caused by natural disasters.

3. The description of the preventive measures and programs included in a natural disaster protection plan pursuant to paragraph (c) of subsection 2 of section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555, must include, without limitation, operational practices, inspections and corrections and system hardening. Those measures and programs must be adopted with consideration of dynamic climate change and other factors that may foreseeably change the risk of natural disasters.

4. The protocols proposed in a natural disaster protection plan pursuant to paragraph (e) of subsection 2 of section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555, must include, without limitation, the threshold criteria for de-energizing portions of the distribution and transmission system of the electric utility due to a natural disaster and the considerations relating to public safety which informed the selection of those criteria.

5. The description of the procedures for the inspection of electric infrastructure included in a natural disaster protection plan pursuant to paragraph (f) of subsection 2 of section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555, must include, without limitation, the standards for determining whether patrols and inspections are adequate and, if those standards exceed any other standard prescribed in applicable law or regulation, the reason for the use of more stringent standards.

6. The description of the procedures for vegetation management included in a natural disaster protection plan pursuant to paragraph (g) of subsection 2 of section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555, must include, without limitation, the standards that the electric utility will use to determine whether vegetation is adequately managed and, if those standards exceed any other standard prescribed in applicable law or regulation, the reason for the use of more stringent standards.

7. An electric utility shall use prudent practices commonly used in the electric utility industry for utility design, operating practices and telecommunications to prevent the infrastructure of the electric utility from causing a fire and to maintain resiliency during a natural disaster.

Sec. 9. On or before September 1 of the first and second years after an electric utility has submitted a natural disaster protection plan to the Commission pursuant to section 8 of this

regulation, the electric utility may file with the Commission a progress report concerning the natural disaster protection plan that will apply to each year remaining for the period covered by the natural disaster protection plan.

Sec. 10. *An electric utility shall:*

1. Submit to the Commission a monthly report 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.

2. Notify the Commission not later than 24 hours after:

(a) A power outage initiated to preserve public safety or a proactive de-energization event;
or

(b) A wildfire caused by the infrastructure of the electric utility that burns more than 1 acre of land.

3. Not later than 1 month after an event described in subsection 2, submit to the Commission a report containing a full description of the event.

Sec. 11. *1. An electric utility shall separately track and account for in its books and records all prudent and reasonable expenditures made by the electric utility to develop and implement its natural disaster protection plan.*

2. 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 natural disaster

protection plan of the electric utility pursuant to subsection 6 of section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555. The Commission will issue a final decision on the application not later than 180 days after the date on which the application was submitted.

Sec. 12. *1. An electric utility may, upon placing into operation a new capital project constructed or acquired by and owned by the electric utility pursuant to a natural disaster protection plan, create a regulatory asset or liability account for the capital project.*

2. Beginning one month after the date on which a new capital project for which a regulatory asset or liability account is created pursuant to subsection 1 is placed into operation, the electric utility that maintains the account shall separately calculate and record in the account:

(a) A return on investment for the capital project using the most recently authorized pretax rate of return on the net plant balance of the capital project. The net plant balance of the capital project must be calculated by subtracting from the costs of the capital project the sum of the accumulated depreciation and the accumulated deferred income tax for the capital project.

(b) Depreciation expenses related to capital projects that are preventive measures and programs included in the natural disaster protection plan pursuant to paragraph (c) of subsection 2 of section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555.

(c) Actual incremental monthly operations and maintenance costs incurred for the capital project to carry out the natural disaster protection plan.

(d) Carrying charges on the costs described in paragraph (c) at the most recently authorized rate of return.

3. The amounts recorded in a regulatory asset or liability account pursuant to subsection 2 must be excluded from a general rate case.

4. An electric utility shall annually submit to the Commission a request to clear the accumulated balance in a regulatory asset or liability account created pursuant to subsection 1 and include the account in the request. The request must include:

(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 of the account;

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

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

Sec. 13. *1. An electric utility may apply to the Commission for authorization for a person who is not an employee of the electric utility to perform tree trimming related to line clearance in an easement or right-of-way dedicated or restricted for use by the electric utility pursuant to subsection 3 of section 1.7 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 556, in the form prescribed by the Commission. The application must include:*

(a) The name, telephone number, mailing address, electronic mail address and physical street address of the person;

(b) A copy of each business license or certificate issued by this State or any political subdivision thereof to the person; and

(c) Proof that the tree trimming will be performed under the direction of an arborist certified by the International Society of Arboriculture.

2. An electric utility that utilizes a person who is not an employee of the electric utility to perform tree trimming related to line clearance in an easement or right-of-way dedicated or restricted for use by the electric utility shall maintain records confirming that the person meets the requirements of subsection 3 of section 1.7 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 556.