

**ADOPTED TEMPORARY REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA**

LCB FILE NO. T005-19A

(NAC Chapter 704)

**The following document is the temporary regulation adopted
by the agency on 07/03/2019**

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Governor's signature

Classification: PROPOSED ADOPTED BY AGENCY EMERGENCY

Brief description of action: Rulemaking to amend the Nevada Administrative Code to provide a simplified procedure for changing rates for those public utilities which furnish only liquefied petroleum gas.

Authority citation other than 233B: This matter is being conducted by the Public Utilities Commission pursuant to the Nevada Revised Statutes ("NRS") and the Nevada Administrative Code Chapters 703 and 704, including but not limited to NRS 703.025, 704.097, and 704.210.

Notice date: March 6, 2019.

Hearing date: May 2, 2019.

Date of Adoption by Agency: May 24, 2019.

PROPOSED REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA

Docket No. 12-02017

May 17, 2019

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

Section 1. Chapter 704 of Nevada Administrative Code (“NAC”) is hereby amended by adding thereto the provisions set forth as sections 2 to 4, inclusive, of this regulation.

Sec. 2. *The provisions of NAC 704.531 to 704.537, and sections 2 to 4 of this regulation, inclusive, apply to all public utilities whose rates are subject to the jurisdiction of the Commission as set forth in NRS 704.097.*

Sec. 3.

1. An operator who utilizes an alternative method to determine the margin rates shall submit an application on or before January 31 of each calendar year for approval of the margin rates as determined by the operator during the operator’s prior fiscal year and demonstrate that such margin rates were just and reasonable. An application submitted pursuant to this section shall include, without limitation, the following:

(a) Monthly billing data for the operator’s prior fiscal year for captive customers with service addresses in Nevada in the same customer class for which the operator is seeking to utilize an alternative method under this section;

(b) Monthly billing data for the operator’s prior fiscal year for all non-captive customers with service addresses in Nevada that have tanks with a nominal capacity of not less than 250 gallons and not more than 3,000 gallons and who are in the same customer class for which the operator is seeking to utilize an alternative method under this section;

(c) Any other documentation or information that the operator elects to provide which justifies disparities in the margin rates, if any, or otherwise

demonstrates the margin rates are just and reasonable.

Such information may be filed confidentially with the Commission in accordance with NAC 703.5274.

2. An operator that does not elect to follow the application procedure established pursuant subsection 1 above must comply with the requirements of NRS 704.110.

Sec. 4.

1. Upon receipt of an application filed pursuant to Section 3 of this regulation, the Regulatory Operations Staff shall conduct an analysis on the documentation and information provided by the operator pursuant to Section 3 of this regulation to determine whether the margin rates were just and reasonable.

2. Following the analysis conducted pursuant to subsection 1, the Regulatory Operations Staff shall file with the Commission and serve on the parties a memorandum setting forth the determinations and recommendations of the Regulatory Operations Staff with respect to the application and recommend any other action by the Commission as the Regulatory Operations Staff may deem reasonable under the circumstances. The Regulatory Operations Staff memorandum shall include documentation to support its recommendations, including an explanation of the analysis performed. The Regulatory Operations Staff shall file the memorandum no later than ninety days after the operator filed the application pursuant to Section 3 of this regulation with the Commission.

Such information may be filed confidentially with the Commission in accordance with NAC 703.5274.

3. Not later than ten business days after the Regulatory Operations Staff files with the Commission its memorandum pursuant to subsection 2, the operator or any interested person may file with the Commission a response to the Regulatory Operations Staff's memorandum, and/or request a hearing on the matter. Upon the request of the operator or Staff, the Commission will hold a hearing. If no request for a hearing is received by the Commission, it will dispense with a hearing and act upon the matter unless it finds a hearing is necessary or required by statute.

4. Not later than sixty days after the Regulatory Operations Staff files with the Commission its memorandum pursuant to subsection 2, the Commission will issue a written order either approving the application and finding that the margin rates charged during the operator's prior fiscal year were just and reasonable consistent with the requirements of subsection 1, or setting the matter for hearing pursuant to subsection 3 of this section. At the hearing, the operator has the burden to prove that its margin rates were just and reasonable.

5. If the Commission determines that the margin rates charged during the operator's prior fiscal year were not just and reasonable, the Commission may order:

(a) The operator to file a general rate application pursuant to NRS 704.110 within a time frame set forth by the Commission; or

(b) The operator to make changes to the alternative method within a time frame set forth by the Commission. The operator may implement changes to the alternative method or elect to file a general rate application pursuant to NRS 704.110.

Sec. 5. NAC 704.531 is hereby amended to read as follows:

As used in NAC 704.531 to 704.537, and sections 2 to 4 of this regulation, inclusive, unless the context otherwise requires:

1. "Alternative method" means a methodology utilized by an operator to determine the margin rates.

2. "Captive customers" means customers who purchase liquefied petroleum gas for consumption in this state from an operator of a liquefied petroleum gas system as defined by NRS 704.020(2)(b) at rates that are regulated by the Commission, and do not have an economically feasible and practical alternative for bypassing the liquefied petroleum gas system.

3. "Cost of service" means all costs for an operator to recover the operating and maintenance expenses, depreciation expenses, operating and income taxes, debt service coverage, and return to shareholders.

4. "Margin rate" means any fixed charge and any charge per sales unit

designed to recover the cost of service for an operator.

5. “Non-captive customers” means customers who purchase liquefied petroleum gas for consumption in this state at rates that are not regulated by the Commission.

~~[1.]~~ 6. “Operator” means a person who operates one or more systems under common ownership and control, with a combined capacity to serve 10 or more users in a contiguous area.

~~[2.]~~ 7. “Reporting period” means January 1 through December 31 of the year preceding the filing of an annual report.

8. “Retail” means sales of liquefied petroleum gas to the final user of such liquefied petroleum gas by an operator, and excludes any sales for resale by such an operator.

~~[3.]~~ 9. “System” means a network of pipes, valves, regulators, meters, containers and their appurtenances, and other physical facilities used by an operator for the distribution of liquefied petroleum gas.

Sec. 6. NAC 704.536 is hereby amended to read as follows:

704.536 1. An operator shall not charge a price for liquefied petroleum gas which exceeds ~~[his or her]~~ its average inventory price for the billing period.

2. In addition to the price charged for liquefied petroleum gas, an operator may assess ~~[a charge for]~~ reasonable margin rates to recover the cost of owning, maintaining, and operating the system ~~[which do not exceed the lowest residential base tariff general rate for natural gas in effect during the billing period or any other general rate established by the Commission].~~

3. With the consent of the Commission, an operator may adopt and utilize an alternative method to determine margin rates in lieu of filing a general rate application pursuant NRS 704.110 ~~[recover the charge for owning, maintaining, and operating the system]~~ if the operator submits an application ~~[for a rate adjustment and demonstrates that such an adjustment is]~~ pursuant to Section 3 of this regulation for determination by the Commission that the margin rates charged during the operator’s prior fiscal year were just and

reasonable. ~~[Both the application and the procedure must be substantially similar to that required for small water and sewer facilities in NAC 704.570 to 704.628, inclusive, and must be approved by the Commission.]~~

4. A customer is entitled to a refund of any overcharge. The operator shall refund the amount of the overcharge plus interest as established by the Commission pursuant to NRS 704.655 from the date the overcharge was paid by the customer. The refund must, at the election of the operator, be made by cash payment or by a reduction in the next billing after the overcharge is discovered.

5. As used in this section, “average inventory price” means the total cost of liquefied petroleum gas available for sale, divided by the amount of liquefied petroleum gas available for sale as calculated for each billing period. For the purpose of this section, the liquefied petroleum gas available for sale is the amount on hand at the beginning of the operator’s billing period, plus the amount of liquefied petroleum gas purchased by the operator during that period.