

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

LCB FILE NO. R029-201

**The following document is the initial draft regulation proposed
by the agency submitted on 03/04/2020**

PROPOSED REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA

Docket No. 19-06029
March 4, 2020

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

Section 1. Chapter 704B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

Sec. 2. *“License” has the meaning ascribed to it in NRS 704B.115.*

Sec. 3. *“License application” means an application filed pursuant to this chapter and chapter 704B of NRS for approval from the Commission to sell energy, capacity or ancillary services to on or more eligible customers.*

Sec. 4. *“Pre-existing provider of new electric resources” and “pre-existing provider” means a provider of new electric resources:*

- 1. Who sold energy, capacity or ancillary services to one or more eligible customers prior to June 12, 2019;*
- 2. Designated by one or more eligible customers to sell energy, capacity or ancillary services to that eligible customer or those eligible customers before June 12, 2019, pursuant to NRS 704B.310, as that section existed before June 12, 2019; or*
- 3. Designated by one or more eligible customers to sell energy, capacity or ancillary services to that eligible customer or those eligible customers pursuant to NRS 704B.310, as that section existed before June 12, 2019, if the eligible customer submitted an application before May 16, 2019.*

Sec. 5. *A person who wishes to sell energy, capacity or ancillary services to an eligible customer must apply to the Commission for a license to be a provider of new electric resources. The application must include:*

- 1. The legal name of the applicant.*
- 2. The current telephone number, email address, mailing address and physical street address of the applicant.*
- 3. The type of business entity that the applicant is organized as and the date on which and the place where the applicant was so organized.*
- 4. 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.*
- 5. A list and description of all affiliates of the applicant which provide retail electric service in the United States.*
- 6. The names and business addresses of:*
 - (a) Three senior officers, directors or partners of the applicant; or*
 - (b) The members of the applicant, if the applicant is a limited-liability company.*

7. *The telephone number of the department or person responsible for providing applicant's customer service and a 24-hour contact number.*
8. *The name, title, telephone number and email address of the person or persons who are the regulatory contact for the applicant.*
9. *The name, title and address of the registered agent of the applicant in Nevada for service of process.*
10. *The most recent annual report filed with the Securities and Exchange Commission, if any, or the most recent audited financial statement of the applicant, if any.*
11. *A disclosure of all:*
 - (a) *Civil, criminal, administrative and regulatory sanctions and penalties imposed within the previous 5 years pursuant to any state or federal law or regulation relating to consumer protection on:*
 - (1) *The applicant or any affiliates thereof;*
 - (2) *Any officer, director or partner of the applicant or any affiliate thereof; and*
 - (3) *If the applicant is a limited-liability company, any member of the applicant; and*
 - (b) *Felony convictions within the previous 5 years, related to the provisioning of or the business of providing electric service of:*
 - (1) *Any officer, director or partner of the applicant or any affiliate thereof; and*
 - (2) *If the applicant is a limited-liability company, any member of the applicant.*
12. *The date on which the applicant expects to begin selling energy, capacity or ancillary services to an eligible customer.*
13. *A demonstration of the ability of the applicant to sell energy, capacity or ancillary services to an eligible customer, including, without limitation:*
 - (a) *evidence of continuous business operations over a period of at least 3 years;*
 - (b) *evidence of prior experience in the provision of retail electric services;*
 - (c) *evidence of technical competence, financial capability and financial responsibility; and*
 - (d) *evidence that the person is in compliance with or will comply with NRS 704.78213; and*
 - (e) *evidence that the applicant will provide energy, capacity, or ancillary services to its eligible customer(s) from new electric resources, including, but not limited to, identification of the generation assets the applicant intends to use to serve its eligible customer(s) and the applicant's opportunities to make market purchases.*
14. *A signature of an officer of the applicant who has appropriate authority attesting, under penalty of perjury, that all information supplied on the application is true and correct and that, once licensed, the provider of new electric resources will comply with all applicable regulations of the Commission. The signature of the officer on an application constitutes a representation that*
 - (a) *The person signing the application has read the application;*
 - (b) *To the best of their knowledge, there are good grounds to support the application; and*

- (a) *The information in the application is true to the best of their knowledge and belief.*
15. *The applicant may request from the Commission a protective order to protect the confidentiality of any information the applicant believes to be commercially sensitive. The Commission will determine whether the requested information is commercially sensitive and requires confidential treatment under Nevada law.*
16. *The Commission shall act upon the application within 60 days.*
17. *If the applicant is a pre-existing provider of new electric resources:*
- (a) *Not later than 30 days after the effective date of this regulation the applicant must:*
 - (1) *Provide the information in subsections 1, 2, 6, 7, 8, 9, paragraph (d) and (e) of subsection 13, and 14 of this Section; and*
 - (2) *Provide an affidavit attesting to which subsection of Section 4 of these regulations the applicant qualifies as a pre-existing provider of new electric resources, identifying the eligible customer(s) to whom it sold or may sell energy, capacity, or ancillary services.*
 - (b) *The Commission shall process the license application of a pre-existing provider of new electric resources filing an application pursuant to Section 5 of these regulations not later than 60 days after the effective date of this regulation. The Commission will approve the application and grant the license to serve only those eligible customers to whom the pre-existing provider of new electric resources attested to serving in accordance with paragraph (a) of this subsection.*

↪ *A pre-existing provider of new electric resources is limited to selling energy, capacity, or ancillary services pursuant to a license to only those eligible customer(s) it has attested to pursuant to paragraph (a) of this subsection. The provision of electric service to any other eligible customer must be undertaken pursuant to a license, as that term is defined by NRS 704B.115 and these regulations.*

Sec. 6. 1. *A licensed provider of new electric resources or a pre-existing provider of new electric resources shall inform the Commission of any change in the name, address or telephone number of the licensed provider, and of any change of its registered agent in Nevada for service of process, within 20 business days after the change occurs.*

2. *A licensed provider of new electric resources or a pre-existing provider of new electric resources shall update the information contained in its application within 20 business days after a change in the information if the change:*
- a. *Materially reduces the financial condition or technical capabilities of the licensed provider; or*
 - b. *Involves any civil, criminal, administrative or regulatory sanctions or penalties related to consumer protection that have been imposed by any state or involves felony convictions related to the electric service business.*
3. *If a licensed provider of new electric resources or a pre-existing provider of new electric resources changes the name under which it conducts business in this State, it must notify the Commission within 20 business days.*

Sec. 7. 1. *Except for a pre-existing provider of new electric resources filing an application pursuant to Section 5 of these regulations, not later than 30 days after the effective date of this regulation, after notice and opportunity for hearing, the Commission may deny an application of a provider of new electric resources for licensure, or if a license has been issued to the provider of new electric resources, after notice and opportunity for hearing, the Commission may revoke, suspend or limit the license, or place the license on probationary status, if:*

- (a) The provider of new electric resources provides information in its application that is materially incomplete, false or misleading, or fails to update the material information of the application in a timely manner;*
 - (b) The provider of new electric resources or any affiliate thereof, or any officer, director or executive of the provider of new electric resources, violates any applicable provision of NRS 704B or any applicable regulation or order of the Commission;*
 - (c) The provider of new electric resources or any affiliate, officer, director, partner, or member thereof violates any state, federal, administrative or regulatory law relating to consumer protection or the provision of electric service, or is convicted of a felony related thereto; or*
 - (d) The provider of new electric resources possesses physical or financial resources that are or have become inadequate to ensure compliance with all of its responsibilities pursuant to NRS 704B, or any applicable regulation or order of the Commission.*
- 2. In addition to any other penalties that may apply, a licensed provider of new electric resources or a pre-existing provider of new electric resources that violates any applicable provision of NRS 704B or any applicable regulation or order of the Commission, is subject to the penalties set forth in NRS 703.380.*
 - 3. The Commission may suspend the license of a provider of new electric resources or a pre-existing provider of new electric resources in accordance with NRS 233B.127 if the provider of new electric resources fails to submit:*
 - (a) Any information required to be submitted pursuant to any applicable regulations or order of the Commission; or*
 - (b) Any relevant information ordered by the Commission, until such time as the provider of new electric resources submits the required information.*
 - 4. If the Commission finds that there is probable cause that a provider of new electric resources or a pre-existing provider of new electric resources has violated any provision of this chapter, the Commission shall:*
 - (a) Notify the provider by certified mail and describe the evidence of the violation;*
 - (b) Issue a public notice for a hearing;*
 - (c) Hold a public hearing on the matter; and*
 - (d) If, based on the findings of fact and the evidence presented at the hearing, the Commission determines that a violation has occurred, issue a decision which may include the imposition of penalties.*
 - 5. If the Commission finds that the public health, safety or welfare imperatively requires that emergency action be taken, the Commission may, pursuant to subsection 3 of NRS 233B.127, order a summary suspension of the license of the provider of new electric resources or of a pre-existing provider of new electric resources pending expedited*

proceedings for revocation of the license or other action to be taken against the provider.

- 6. A provider of new electric resources or a pre-existing provider of new electric resources whose license has been revoked is not precluded from filing an application for a new license and attempting to demonstrate the fitness of the provider of new electric resources and its ability to comply with all of the applicable regulations and rules of the Commission.*

Sec. 8. *A provider of new electric resources or a pre-existing provider of new electric resources that wishes to abandon its license to sell energy, capacity or ancillary services in Nevada, shall file a notice with the Commission no later than 60 days prior to the planned abandonment.*