

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

LCB FILE NO. R136-201

**The following document is the initial draft regulation proposed
by the agency submitted on 07/08/2020**

**PROPOSED DRAFT REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA
PUCN Docket No. 19-06028
July 8, 2020**

AUTHORITY: Assembly Bill No. 465 (2019), Nevada Revised Statutes (“NRS”) 703.025 and 704.210, and the Nevada Administrative Code (“NAC”), Chapters 233B, 703, 704.

A REGULATION to implement Assembly Bill No. 465 (2019).

Explanation – Matter in *bold italics* is new language; matter in ~~omitted material~~ is language to be omitted.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 1 to 9, inclusive, of this regulation.

Purpose. (704.7865(2)(a)) The purpose of this section is to establish methods and programs to advance community-based solar and utility-scale solar resources in the State of Nevada pursuant to subsection 2 of NRS 704.7865.

Section 2. Definitions. (704.7865(2)(n))

As used in this chapter, the words and terms defined in this Section, inclusive, have the meanings ascribed to them in those sections:

- 1. “Community with higher levels of low-income eligible customers” means a community that has a greater-than-average percentage of eligible customers who meet the criteria established by an electric utility and approved in an expanded solar access program plan. An electric utility shall utilize available tools and/or work with appropriate government agencies, such as the Division of Welfare and Supportive Services, to the extent practicable, to develop the criteria necessary to determine the boundaries of a “community with higher levels of low-income eligible customers.”***
- 2. “Disadvantaged business” has the meaning ascribed to it by NRS 704.7865(6)(c).***
- 3. “Eligible premises customer” means a customer who is a fully bundled residential customer of an electric utility that provides the required documentation, as defined in the expanded solar access program plan and approved by the Commission. The customer must demonstrate that the customer cannot physically install solar resources on the customer’s premises due to physical constraints of the premises and/or ownership constraints of the premises. Physical constraints do not include financial constraints.***
- 4. “Expanded solar access program plan” means the expanded solar access program implementation plan, or “plan,” for administering the expanded solar access program specified in NRS 704.7865(3).***
- 5. “Expanded solar access program rate” means a Commission-approved fixed rate charge for expanded solar access program customers, which replaces the Base***

Tariff Energy Rate and the Deferred Energy Accounting Adjustment and which is adjusted in accordance with the Commission's quarterly calculations.

6. *“Low-income eligible customer” means a natural person or household that is a fully bundled residential customer of an electric utility and has an income of not more than 80 percent of the area median income based on the guidelines published by the United States Department of Housing and Urban Development.*
7. *“Non-contiguous geographic locations” means two geographic locations that are not adjoining along a boundary or consisting of parts that adjoin.*
8. *“Nonprofit Organization” means a business that has been granted tax-exempt status by the Internal Revenue Service.*

Section 3. Total Energy Capacity; reservation amounts (NRS 704.7865(1) & (2)(m), (o))

1. *An electric utility that primarily serves densely populated counties shall not exceed the following total annual amount of energy for its expanded solar access program:*
 - a. *60,000 megawatt-hours for low-income eligible customers,*
 - b. *60,000 megawatt-hours for disadvantaged businesses or nonprofit organizations, and*
 - c. *120,000 megawatt-hours for eligible premises customers.*
 - d. *The plan must identify a reserve amount for each of the above-listed categories to ensure the annual limit of 240,000 megawatt-hours is not exceeded.*
2. *An electric utility that primarily serves less densely populated counties shall not exceed the following total annual amount of energy for their expanded solar access program:*
 - a. *40,000 megawatt-hours for low-income eligible customers,*
 - b. *40,000 megawatt-hours for disadvantaged businesses or nonprofit organizations, and*
 - c. *80,000 megawatt-hours for eligible premises customers.*
 - d. *The plan must identify a reserve amount for each of the above-listed categories to ensure the annual limit of 160,000 megawatt-hours is not exceeded.*

Section 4. Expanded solar access program implementation plan: submission; periodic filing; order accepting plan or specifying inadequacies. (NRS 704.7865(2)(q))

1. *An electric utility must submit its initial expanded solar access program plan for acceptance by the Commission on or before December 1, 2020.*
2. *An electric utility must submit an updated expanded solar access program plan for acceptance by the Commission every 3 years thereafter.*
3. *An electric utility may file an amendment to an expanded solar access program plan at any time prior to the triennial filing.*
4. *An electric utility and its affiliate may file a joint plan, amendment, or update.*
5. *An electric utility must obtain Commission approval, pursuant to NRS 704.741 or NRS 704.751, for any utility-scale resources.*

6. *Every March 1 following the Commission's approval of an electric utility's expanded solar access program plan, an electric utility must file an informational report with the Commission detailing:*
 - a. *The number of total customers that participated during the prior year, by category, including:*
 - i. *The number of applications received.*
 - ii. *The number of individuals who have voluntarily left the program.*
 - iii. *The number of participants remaining in the program.*
 - b. *The status of construction, maintenance, and operation of community-based solar resources.*
 - c. *The energy production from the solar resources.*
 - d. *The amount of energy subscribed, and whether the reserve capacity is adequate.*
 - e. *Expanded solar access plan program rate information, including but not limited to revenues received and costs incurred.*
 - f. *Any workforce statistics available to the electric utility.*
 - g. *The number and types of calls to the electric utility's customer service department pertaining to the expanded solar access program.*

Section 5. Expanded solar access program plan: development and contents. (NRS 704.7865(2)(b), (c), (d), (g), (h), (i), (j), (k))

The expanded solar access program plan must include:

1. *A list of actions for which an electric utility seeks Commission approval, including the approval of the Commission of community-based solar resources and utility-scale solar resources. The Commission shall determine whether the submitted list of actions ensures that the program utilizes a reasonable mixture of community-based solar resources and utility-scale solar resources.*
2. *For utility-scale resources:*
 - a. *A list of the utility-scale solar resource(s) to be used in determining the expanded solar access program rate.*
3. *For community-based solar resources:*
 - a. *The criteria, developed with stakeholder input, to be used by an electric utility to create an initial list of non-contiguous community-based solar resource locations and the process, which shall include stakeholder input, for selecting final site locations. In subsequent amendments or plans, an electric utility, after consultation with stakeholders, may propose modifications to the criteria and process for selecting the community-based solar resource locations and, when necessary, indicate any proposed new community-based solar resource locations.*
 - b. *A schedule for the selection, construction and operation of the community-based solar resources dedicated to the expanded solar access program that considers the amount of energy that is subscribed, the amount of energy that is expected to be subscribed and the reserve energy that comports with the requirements of*

- NRS 704.7865(2)(h).*
- c. A description of an electric utility's process for community participation in the naming of community-based solar resources.*
 - d. Information on how an electric utility plans to compensate community-based solar site hosts, including, but not limited to, terms of any form lease agreements, purchase agreements, or easements.*
 - e. Information regarding a solar workforce innovations and opportunities program, developed by the Department of Employment, Training, and Rehabilitation in conjunction with potential employers and the International Brotherhood of Electrical Workers, to provide workforce education, training, and job placement. The solar workforce innovations and opportunity program must accomplish the following:*
 - i. Leverage existing plans and programs within the Department of Employment, Training, and Rehabilitation to reduce administrative costs.*
 - ii. Ensure that at least one job fair open to the public is conducted in each community or neighboring low-income community, as needed for recruitment, where a community solar resource is planned to be built. The job fair should coordinate with the International Brotherhood of Electrical Workers, including representatives from the Joint Apprenticeship Training Center, and with the Department of Employment Training and Rehabilitation, private solar or electric installation companies, local schools and colleges, and other interested stakeholders as practicable, to provide educational resources and training and to solicit potential qualified applicants.*
 - iii. Establish a selection process to refer qualified applicants to the International Brotherhood of Electrical Workers for adequate training. Qualified applicants should then be selected to participate in appropriate contracted positions to aid in the construction, maintenance, and operation of the community solar project(s).*
 - iv. Determine job titles, detail quality compensation, and establish benefits for the contracted positions.*
 - 4. A description of the application and selection process for eligible customers, including annual rules for recertification, disenrollment, and/or relocation of customers enrolled in the expanded solar access program.*
 - 5. A plan for marketing the expanded solar access program.*
 - 6. The proposed annual budget for each of the expanded solar access program plan components, including but not limited to marketing, community outreach, and program administration.*
 - 7. Criteria for identifying traditionally underrepresented groups for purposes of determining qualifying employees of a disadvantaged business. Qualifications for a*

disadvantaged business may be developed in coordination with a governmental or non-profit agency with relevant expertise.

8. *A description of expanded solar access program rate components and methodology for developing participant charges.*

Section 6. Application, proof of eligibility (NRS 704.7865(2)(f), (l), (o), (p))

1. *Low-income eligible customers, disadvantaged businesses, nonprofit organizations, and eligible premises customers located within an electric utility's service territory may apply to participate in the electric utility's expanded solar access program.*
 - a. *An electric utility may work with the Housing Division of the Department of Business and Industry, the Division of Welfare and Supportive Services of the Department of Health and Human Services, or any other state, county, or local governmental entity or nonprofit organization to develop eligibility criteria and verification processes for low-income eligible customers.*
 - b. *A disadvantaged business must:*
 - i. *Provide a copy of a local or state business license;*
 - ii. *Provide documentation demonstrating that at least 51 percent or more of the business owners are women, veterans, members of a racial or ethnic minority group, or otherwise part of a traditionally underrepresented group; and*
 - iii. *Provide a signed affidavit of eligibility with supporting evidence that confirms that each business owner does not have a net worth of more than \$250,000, not including the equity held in the business or in a primary residence.*
 - c. *A nonprofit organization must provide an Affirmation or Determination Letter from the Internal Revenue Service certifying the tax-exempt status of the nonprofit organization.*
 - d. *Eligible premises customers must provide a written statement certifying that the customer cannot install solar resources on his/her premises. Customers may also include building and/or property schematics and/or pictures.*
2. *The expanded solar access program plan year runs from January 1 to December 31 of each calendar year.*
3. *Applicants will be selected based on an annual lottery process described in the expanded solar access program plan. The plan shall also describe any interim enrollment process that an electric utility intends to use.*
4. *Applicants under a specific premises will be enrolled in the expanded solar access program for one year. Applicants may withdraw from the expanded solar access program at any time. At the end of the expanded solar access program term, if a customer would like to renew its participation for the subsequent term without reentering the lottery, the customer must recertify per Section 6.1 of these regulations to remain in the expanded solar access program.*

5. *Participants' participation in the program may be terminated as described in the plan.*

Section 7. Preferred host sites. (NRS 704.7865(5))

1. *In developing the geographic locations for community-based solar resources connected to the distribution system, an electric utility must consider and provide greater weight for the following locations:*
 - a. *A location sited in a disadvantaged or low-income community.*
 - b. *A location sited in an area determined by an electric utility or the Commission to have high locational value, which may include, but is not limited to: an area with optimum solar output; an area capable of obtaining the necessary permits; an area that provides community services or benefits; or an area that provides a grid benefit.*
2. *An electric utility must provide reasonable justification for the selected host sites.*
3. *If it is impracticable for an electric utility to site a community-based solar resource in a community with higher levels of low-income eligible customers, an electric utility must provide adequate rationale for why the selected site is appropriate.*

Section 8. Expanded solar access program rate. (NRS 704.7865(2)(f))

1. *The expanded solar access program rate for all customers will be calculated as 30 percent of the weighted average of the rates for utility-scale resources that qualify under the statute and community based solar resources approved pursuant to the expanded solar access program plus 70 percent of the Base Tariff Energy Rate, adjusted to remove the expanded solar access program resources and the Deferred Energy Accounting Adjustment. The expanded solar access program rate will replace a customer's Base Tariff Energy Rate and Deferred Energy Accounting Adjustment.*
2. *The Commission will adjust low-income participant's expanded solar access program rate downward as needed to guarantee low-income customers receive a lower energy rate pursuant to NRS 704.7865(2)(f)(3).*
3. *Customers in the expanded solar access program must pay any other applicable charges, including but not limited to the universal energy charge, franchise fees, the renewable energy program rate, and the base tariff general rates, except that the Commission may reduce one or more of these charges for low-income customers to ensure that such customers receive a lower rate pursuant to NRS 704.7865(2)(f)(3).*
4. *Any expanded solar access program rate discount, including any low-income customer discount, shall be tracked separately in a regulatory asset and recovered on a quarterly basis in conjunction with an electric utility's quarterly filing made pursuant to NRS 704.110(10) and (11).*
5. *Expanded solar access rate revenues paid by participating customers shall be*

applied to the deferred energy accounting balance in the same manner as the Base Tariff Energy Rate and Deferred Energy Accounting Adjustment rates.

Section 9. Accounting for and recovery of costs of implementing the expanded solar access program.

- 1. All costs of implementing the expanded solar access program, excluding the discount in Section 8 subsection 4 above, must be accounted for in the books and records of an electric utility in regulatory asset accounts separately from costs and amounts attributable to any other activity. All accounts must be maintained in a manner that will allow costs and amounts attributable to specific programs to be readily identified. The calculation for the regulatory asset account for the capital costs of a community-based resource begins on the last day of the month following the date on which the resource is made available as a community solar resource.***
- 2. An electric utility shall recover all of its prudent and reasonably incurred expenditures of implementing the expanded solar access program that have been approved by the Commission as part of the electric utility's expanded solar access plan.***
- 3. An electric utility will submit the regulatory asset accounts to the Commission in the electric utility's annual March 1 Deferred Energy Accounting Adjustment filing with proposals to recover the accumulated balance of the expanded solar access program costs and for the recovery of and recovery on the construction or acquisition of any community-based solar resource dedicated to the program by the electric utility.***
- 4. All costs related to the expanded solar access program are public policy costs that shall be charged to all customer classes of an electric utility.***
- 5. The portfolio energy credits derived from the expanded solar access program will be used for renewable portfolio standard compliance by the electric utility implementing the expanded solar access program.***