

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

LCB File No. R136-20

November 23, 2021

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

AUTHORITY: §§ 1-16, NRS 703.025, 704.210 and 704.7865.

A REGULATION relating to electric utilities; limiting the amount of energy that may be allocated to certain categories of customers under an expanded solar access program; requiring an electric utility to submit to the Public Utilities Commission of Nevada an expanded solar access program plan; establishing the application and selection process for an expanded solar access program; establishing requirements for the selection of locations for community-based solar resources; establishing requirements for rates charged under an expanded solar access program; authorizing an electric utility to recover certain costs of implementing an expanded solar access program; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires: (1) an electric utility to offer an expanded solar access program to eligible customers within its service territory; and (2) the Public Utilities Commission of Nevada to adopt regulations establishing standards for the expanded solar access program. (NRS 704.7865)

Section 10 of this regulation establishes limits on the amount of energy which may be allocated to certain categories of customers under the expanded solar access program.

Section 11 of this regulation requires an electric utility to: (1) submit an expanded solar access program plan to the Commission every 3 years; and (2) file with the Commission an informational report regarding the expanded solar access program on or before March 1 of each calendar year following the calendar year in which the Commission approves the initial expanded solar access program plan of the electric utility. **Section 11** requires the utility scale solar resources included in the expanded solar access program plan to be approved by the Commission as part of the electric utility’s triennial resource plan. **Section 12** of this regulation establishes the information which an electric utility is required to include in its expanded solar access program plan.

Section 13 of this regulation establishes requirements for eligible customers to apply to participate in an expanded solar access program and requires applicants to be selected through a lottery system.

Section 14 of this regulation establishes requirements for the selection of the host sites for community-based solar resources.

Section 15 of this regulation establishes the method for calculating the rate charged to participants in the expanded solar access program which replaces the base tariff energy rate and deferred energy accounting adjustment. **Section 15** also requires the Commission to adjust certain rates charged to low-income customers to ensure that such customers receive a lower energy rate.

Section 16 of this regulation establishes the process for an electric utility to recover the costs of implementing an expanded solar access program. **Section 16** also provides that the portfolio energy credits acquired: (1) by implementing the expanded solar access program must be used to meet the portfolio standard of the electric utility; and (2) from community-based solar resources must be allocated between the electric utility and its distribution-only service customers.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 16, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, have the meanings ascribed to them in those sections.*

Sec. 3. *“Disadvantaged business” has the meaning ascribed to it in NRS 704.7865.*

Sec. 4. *“Eligible premises customer” means a customer who is a fully bundled residential customer of an electric utility who cannot install solar resources on the customer’s premises due to physical or ownership constraints on the premises.*

Sec. 5. *“Expanded solar access program plan” means the expanded solar access program plan submitted to the Commission by an electric utility pursuant to section 11 of this regulation.*

Sec. 6. *“Expanded solar access program rate” means a fixed-rate charge approved by the Commission to be charged to customers participating in an expanded solar access program, which replaces the base tariff energy rate and the deferred energy accounting adjustment and which is adjusted in accordance with the quarterly calculations of the Commission.*

Sec. 7. *“Low-income eligible customer” has the meaning ascribed to it in NRS 704.7865.*

Sec. 8. *“Non-contiguous geographic locations” means two geographic locations that are not adjoining along a boundary or consisting of parts that adjoin.*

Sec. 9. *“Nonprofit organization” means an organization which qualifies as tax exempt pursuant to section 501(c) of the Internal Revenue Code, 26 U.S.C. § 501(c).*

Sec. 10. 1. *An electric utility that primarily serves densely populated counties shall ensure that the amount of energy provided annually through its expanded solar access program does not exceed:*

(a) 60,000 megawatt-hours to low-income eligible customers;

(b) 60,000 megawatt-hours to disadvantaged businesses and nonprofit organizations; and

(c) 120,000 megawatt-hours to eligible premises customers.

2. *An electric utility that primarily serves less densely populated counties shall ensure that the amount of energy provided annually through its expanded solar access program does not exceed:*

(a) 40,000 megawatt-hours to low-income eligible customers;

(b) 40,000 megawatt-hours to disadvantaged businesses and nonprofit organizations; and

(c) 80,000 megawatt-hours to eligible premises customers.

3. *An electric utility shall set forth in its expanded solar access program plan a reserve amount for the categories of customers listed in subsections 1 and 2, as applicable, to ensure that the size of the expanded solar access program does not exceed the limits set forth in subsection 1 of NRS 704.7865.*

4. *As used in this section:*

(a) “Electric utility that primarily serves densely populated counties” has the meaning ascribed to it in NRS 704.110.

(b) “Electric utility that primarily serves less densely populated counties” has the meaning ascribed to it in NRS 704.110.

Sec. 11. 1. *On or before December 1, 2020, and every 3 years thereafter, an electric utility shall submit an expanded solar access program plan to the Commission for approval.*

2. An electric utility may file an amendment to an expanded solar access program plan that has been approved by the Commission provided that another expanded solar access program plan submitted by the utility is not pending before the Commission.

3. Two or more utilities that are affiliated through common ownership may jointly file an expanded solar access program plan or amendment pursuant to this section.

4. Utility scale solar resources which are included in an expanded solar access program plan must be approved by the Commission in an order issued pursuant to NRS 704.751.

5. On or before March 1 of each calendar year following the calendar year in which the Commission approved the initial expanded solar access program plan of an electric utility, the electric utility shall file an informational report with the Commission which details:

(a) For the immediately preceding calendar year:

(1) The number of applications for the program received by the electric utility;

(2) The number of individuals who voluntarily left the program; and

(3) The number of participants remaining in the program at the end of the calendar year.

(b) The status of any community-based solar resources including, without limitation, the construction, maintenance and operation of such solar resources.

(c) The production of energy by community-based solar resources and utility scale solar resources which are included in the program.

(d) The amount of energy subscribed and whether the reserve capacity is adequate.

(e) Information regarding the expanded solar access program rate, including, without limitation, revenues received and costs incurred by the utility.

(f) Any workforce statistics related to the program that are available to the electric utility.

(g) The number and types of calls to the customer service department of the utility relating to the program.

(h) The number of individuals who did not return recertification documentation.

Sec. 12. *The expanded solar access program plan of an electric utility must include the following information:*

1. A list of actions for which the electric utility is seeking approval by the Commission, including, without limitation, the electric utility's selection of community-based solar resources and utility scale solar resources to be included in the expanded solar access program. The Commission will not approve the list of actions unless the proposed actions ensure that the expanded solar access program utilizes a reasonable mixture of community-based solar resources and utility scale solar resources.

2. A list of the utility scale solar resources to be used in determining the expanded solar access program rate.

3. The criteria, which must be developed using stakeholder input, to be used by the electric utility to create an initial list of non-contiguous geographic locations for community-based solar resources and the process, which must include receiving input from stakeholders, for selecting final site locations for community-based solar resources. An electric utility may, in subsequent expanded solar access program plans or amendments, after consultation with stakeholders, 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.

4. A schedule for the selection, construction and operation of the community-based solar resources dedicated to the expanded solar access program that complies with the requirements of paragraph (h) of subsection 2 of NRS 704.7865 and considers the amount of energy that is subscribed, the amount of energy that is expected to be subscribed and the reserve energy.

5. A description of the electric utility's process for community participation in the naming of community-based solar resources.

6. Information on how the electric utility plans to compensate community-based solar site hosts including, without limitation, the terms of any form lease agreements, purchase agreements or easements.

7. Information regarding a solar workforce innovations and opportunities program, developed by the Department of Employment, Training and Rehabilitation in conjunction with potential employers, interested nonprofit organizations and the International Brotherhood of Electrical Workers, or its successor organization, to provide workforce education, training and job placement. The solar workforce innovations and opportunities program must accomplish the following:

(a) Leverage existing plans and programs within the Department of Employment, Training and Rehabilitation to reduce administrative costs.

(b) 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-based solar resource is planned to be built. The job fair must be coordinated with the Department of Employment, Training and Rehabilitation, private solar or electrical installation companies,

local schools and colleges, the International Brotherhood of Electrical Workers, or its successor organization, including, without limitation, representatives from the Joint Apprenticeship Training Center, and other interested stakeholders, as practicable, to provide educational resources and training and to solicit potential qualified applicants.

(c) Establish a selection process to refer qualified applicants to the International Brotherhood of Electrical Workers, or its successor organization, for adequate training. Qualified applicants must be selected to participate in appropriate contracted positions to aid in the construction, maintenance and operation of community-based solar projects.

(d) Determine job titles, detail quality compensation and establish benefits for the contracted positions.

8. A description of the application and selection process for eligible customers, including, without limitation, annual rules for recertification, disenrollment and relocation of customers enrolled in the expanded solar access program.

9. A plan for marketing the expanded solar access program that includes marketing that is linguistically appropriate.

10. The proposed annual budget for each of the expanded solar access program plan components, including, without limitation, marketing, community outreach and program administration.

11. Criteria for identifying traditionally underrepresented groups for the purposes of determining qualifying owners of a disadvantaged business. Qualifications for a disadvantaged business may be developed in coordination with a governmental agency or nonprofit organization with relevant expertise.

12. Criteria for identifying and establishing the boundaries of a community with higher levels of low-income eligible customers. An electric utility shall utilize available tools and work with appropriate government agencies, including, without limitation, the Division of Welfare and Supportive Services of the Department of Health and Human 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.

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

Sec. 13. 1. *A low-income eligible customer, disadvantaged business, nonprofit organization or eligible premises customer located within the service territory of an electric utility may apply to participate in the expanded solar access program of the electric utility.*

2. An electric utility may cooperate 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 any nonprofit organization, to develop eligibility criteria and verification processes for a low-income eligible customer.

3. A disadvantaged business must include in its application to participate in an expanded solar access program:

(a) A copy of its State or local business license;

(b) Documentation demonstrating that more than 50 percent of the owners of the business are women, veterans, members of a racial or ethnic minority group or otherwise part of a traditionally underrepresented group according to the criteria included in the expanded solar access program plan approved by the Commission; and

(c) A signed affidavit of eligibility with supporting evidence that confirms that each owner of the business does not have a net worth of more than \$250,000, not including equity held in the business or in a primary residence.

4. A nonprofit organization must include in its application to participate in an expanded solar access program an affirmation or determination letter from the Internal Revenue Service indicating that the organization is exempt from taxation pursuant to section 501(c) of the Internal Revenue Code, 26 U.S.C. § 501(c).

5. An eligible premises customer must include in his or her application to participate in an expanded solar access program a written statement certifying that the customer cannot install solar resources on his or her premises due to physical or ownership constraints on the premises. For the purpose of determining whether an eligible premises customer is eligible to participate in an expanded solar access program, a financial constraint preventing the customer from installing solar resources on his or her premises does not constitute a physical constraint on such an installation. An eligible premises customer may include in his or her application building or property schematics or pictures demonstrating that the eligible premises customer cannot install solar resources on his or her premises due to physical or ownership constraints on the installation of solar resources on his or her premises.

6. The expanded solar access program plan year runs from January 1 to December 31 of each calendar year.

7. Applicants for participation in an expanded solar access program must be selected on the basis of a lottery system which each electric utility shall set forth in its expanded solar access program plan. Each electric utility shall also include in its expanded solar access

program plan a description of any interim enrollment process that the electric utility intends to use.

8. Participants in an expanded solar access program must be enrolled in the program for 1 year but may withdraw from participation at any time. At the end of the expanded solar access program term, a participant may renew participation in the program without participating in the selection lottery if the participant notifies the electric utility of the participant's intention to remain in the program and resubmits any documents that meet the requirements contained in subsection 3, 4 or 5, as applicable.

9. A customer's participation in the program may be terminated by the electric utility as provided in an expanded solar access program plan that has been approved by the Commission.

Sec. 14. 1. *In selecting the host sites for community-based solar resources connected to the distribution system, an electric utility must consider and provide greater weight to the following locations:*

(a) A location in a disadvantaged or low-income community.

(b) A location in an area determined by an electric utility or the Commission to have high locational value which includes, without limitation, an area that has optimum solar output, an area for which it is possible to obtain the necessary permits, an area that provides community services or benefits or an area that provides a grid benefit.

2. An electric utility shall provide a reasonable justification for its selection of a host site as the site for a community-based solar resource. 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, the electric utility shall provide adequate rationale for why the selected site is appropriate.

Sec. 15. 1. *The expanded solar access program rate for all customers participating in the program must be calculated as 30 percent of the weighted average of the rates for new utility-scale solar resources accepted by the Commission in an order pursuant to NRS 704.751 and selected for use in determining the expanded solar access program rate pursuant to subparagraph (1) of paragraph (f) of subsection 2 of NRS 704.7865, as approved by the Commission, and community-based solar resources approved as part of the expanded solar access program plan, plus 70 percent of the base tariff energy rate and deferred energy accounting adjustment, adjusted to remove the expanded solar access program resources. The expanded solar access program rate will replace a participating customer's base tariff energy rate and deferred energy accounting adjustment.*

2. The Commission will adjust the expanded solar access program rate charged to low-income customers as necessary to guarantee that such customers receive a lower energy rate as required by NRS 704.7865.

3. Customers participating in the expanded solar access program shall pay any other applicable charges, including, without limitation, 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 as required by NRS 704.7865.

4. Any expanded solar access program rate discount, including, without limitation, any low-income customer discount, must be tracked by the electric utility separately in a regulatory asset and recovered from all utility customers, including distribution-only service customers,

on a quarterly basis in conjunction with an electric utility's quarterly filing made pursuant to NRS 704.110.

5. Expanded solar access program rate revenues paid by participating customers must be applied to the deferred energy accounting balance in the same manner as the base tariff energy rate and the deferred energy accounting adjustment rates.

Sec. 16. 1. All of the costs of implementing an expanded solar access program, with the exception of any rate discount tracked pursuant to subsection 4 of section 15 of this regulation, must be accounted for in the books and records of an electric utility in regulatory asset accounts which are separate from costs and amounts attributable to any other activity. All such 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 solar resource begins on the last day of the month following the date on which the resource is made available as a community-based solar resource.

2. An electric utility shall recover all prudent and reasonable expenditures of implementing the expanded solar access program, provided that such expenditures arise out of actions that have been approved by the Commission as part of the electric utility's expanded solar access program plan.

3. An electric utility must submit the regulatory asset accounts associated with the expanded solar access program to the Commission with the electric utility's annual deferred energy accounting adjustment application submitted pursuant to NRS 704.187, with proposals to recover the accumulated balance of the expanded solar access program costs and for the

recovery of and return on the costs for the construction or acquisition of any community-based solar resource dedicated to the expanded solar access program by the electric utility.

4. All costs related to the expanded solar access program are public policy costs that must be charged to all customer classes of an electric utility, including, without limitation, distribution-only service customers.

5. The portfolio energy credits generated:

(a) From the expanded solar access program must be used for renewable portfolio standard compliance by the electric utility implementing the expanded solar access program; and

(b) From community-based solar resources must be allocated between the electric utility implementing the expanded solar access program and its distribution-only service customers on a load ratio basis.