

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

**LCB File No. R011-22**

September 6, 2022

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

AUTHORITY: §§ 1-15, NRS 703.025, 704.210 and 704.7983.

A REGULATION relating to electric utilities; revising requirements for an application by an electric utility to recover its prudent and reasonable expenditures to develop and implement a natural disaster protection plan; revising requirements for the tracking and accounting of such expenditures; requiring an electric utility to submit a progress report concerning its natural disaster protection plan; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires an electric utility, on or before June 1, 2020, and on or before June 1 of every third year thereafter, to submit a natural disaster protection plan to the Public Utilities Commission of Nevada. A natural disaster protection plan is 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. (NRS 704.7983; section 7 of LCB File No. R085-19) **Section 10** of this regulation revises the information which is required to be included in a natural disaster protection plan.

**Sections 2-7** of this regulation define certain terms relating to natural disaster protection plans. **Section 9** of this regulation provides for the proper placement of these definitions in the Nevada Administrative Code.

Existing law requires an electric utility to recover all prudent and reasonable expenditures to develop and implement a natural disaster protection plan as a separate monthly rate charged to customers. (NRS 704.7983) Existing regulations require the electric utility to separately track and account for those expenditures in its books and records and annually submit to the Commission a request to recover the cost of those expenditures. (Section 12 of LCB File No. R085-19) **Section 12** of this regulation requires the electric utility to designate those expenditures as direct, joint or common costs. **Section 12** also requires an electric utility, in applying to recover the cost of those expenditures, to show that those expenditures are incremental to the costs incurred in the normal course of business and are not otherwise recovered through rates.

**Section 13** of this regulation requires the electric utility to include a request to recover the cost of prudent and reasonable expenditures made by the electric utility to develop and implement the natural disaster protection plan in the general rate application filed by the electric

utility. **Section 13** requires the electric utility, each year that it does not submit a general rate application, to file an application to adjust the rate established to recover these expenditures to reflect any over-recovery or under-recovery of such expenses that occurred in the immediately preceding year. **Section 15** of this regulation provides that these provisions are effective on March 2, 2024.

**Section 8** of this regulation requires an electric utility to include and respond to a master document for the request of data in its application to recover the cost of its expenditures.

Existing regulations authorize an electric utility in certain years after the filing of a natural disaster protection plan to file with the Commission a progress report concerning the natural disaster protection plan. (Section 10 of LCB File No. R085-19) **Section 11** of this regulation makes the filing of this progress report mandatory.

Existing regulations authorize 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. (Section 13 of LCB File No. R085-19) **Section 14** of this regulation revises the amounts which must be calculated and recorded in such an account.

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

**Sec. 2.** *“Common costs” means those costs incurred by an electric utility within its service territory that cannot be clearly identified as being caused by an individual customer or specific class of customers.*

**Sec. 3.** *“Customer” means a person:*

- 1. Who receives or applies to receive electric service from an electric utility;*
- 2. In whose name such service is or is to be provided, as evidenced by a signature on the application or contract for such service; or*
- 3. In whose name such service is or is to be provided, as may be established by other demonstrable evidence that the person requested the utility to provide such service in that person’s name.*

**Sec. 4.** *“Direct costs” means those costs incurred by an electric utility within its service territory that can be clearly identified as being caused by an individual customer or a specific class of customers.*

**Sec. 5.** *“Joint costs” means those costs not identified as direct costs or common costs within the service territory of an electric utility that are incurred for the benefit of more than one service territory of an electric utility holding company.*

**Sec. 6.** *“Rate design” means the specification of prices for each component of a rate schedule for each class of customers, which provides for the recovery of costs incurred to develop and implement the natural disaster protection plan after the assignment of direct costs and the allocation of common costs and joint costs to each class of customers.*

**Sec. 7.** *“Service territory” means the service territory of an electric utility that is legally described in the certificate of public convenience and necessity issued by the Commission pursuant to NRS 704.330.*

**Sec. 8. 1.** *An electric utility which files an application to recover the prudent and reasonable expenditures made by the electric utility to develop and implement the natural disaster protection plan of the electric utility pursuant to section 12 of LCB File No. R085-19 must include with the application a master document for the request of data, with answers to the questions contained in the master document.*

**2.** *The electric utility shall:*

*(a) Complete as many of the answers to the questions in the master document as possible given the available applicable data.*

*(b) Provide the electronic executable files with all links intact for any schedules submitted in the master document for the request for data to:*

*(1) The Commission;*

*(2) The Consumer’s Advocate; and*

*(3) The Regulatory Operations Staff of the Commission.*

3. *Except as otherwise provided in this subsection, the master document for the request of data must be submitted in the illustrative format required by the Commission. The illustrative format for a particular master document for the request of data may be changed if the Consumer's Advocate, the Regulatory Operations Staff of the Commission and the electric utility agree to the change. The illustrative format for the master document for the request of data may be obtained at the offices of the Commission.*

4. *The following entities may request that the Commission change the illustrative format for the master document for the request of data:*

*(a) The Consumer's Advocate;*

*(b) The Regulatory Operations Staff of the Commission; or*

*(c) The electric utility.*

5. *Any changes which the Commission makes to the illustrative format for the master document for the request of data do not apply to a master document for the request of data submitted by an electric utility within 90 days after the Commission approves the changes.*

**Sec. 9.** Section 2 of LCB File No. R085-19 is hereby amended to read as follows:

Sec. 2. As used in sections 2 to 14, inclusive, of LCB File No. R085-19 *and sections 2 to 8, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of LCB File No. R085-19 *and sections 2 to 7, inclusive, of this regulation* have the meanings ascribed to them in those sections.

**Sec. 10.** Section 7 of LCB File No. R085-19 is hereby amended to read as follows:

Sec. 7. 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. An electric utility shall include in its natural disaster protection plan all of the following information:

(a) A description of a risk-based approach used by the electric utility to identify areas within the service territory of the electric utility that are prone to different types of natural disasters and an identification of potential threats in the foreseeable future, including, without limitation, an identification of areas within the service territory of the electric utility that are subject to a heightened threat of a fire or other natural disaster.

(b) A description of the preventive strategies and programs, including, without limitation, operational practices, inspections and corrections, and system hardening that the electric utility will adopt to minimize the risk of its electric lines and equipment causing catastrophic wildfires. In determining which preventive strategies and programs to include in the description required by this paragraph, the electric utility shall consider dynamic climate change and other natural disaster risks.

(c) 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 underlying the use of those metrics.

(d) The threshold criteria for the de-energization of portions of the distribution and transmission system of the electric utility due to a natural disaster that considers the associated impacts on public safety.

(e) The protocols that the electric utility plans to use:

(1) For disabling reclosers and de-energizing portions of the distribution and transmission system of the electric utility that considers the associated impacts on public safety; and

(2) To mitigate the public safety impacts of the protocols described in subparagraph (1), including, without limitation, impacts on critical first responders and on health and communication infrastructure.

(f) A description of the procedures the electric utility intends to use to restore its distribution and transmission systems in the event of the de-energization of those systems or a portion of those systems.

(g) A communication plan related to public safety outage management, which includes, without limitation, communication plans specific to customers, stakeholders and communication infrastructure providers. Before filing a natural disaster protection plan, each electric utility shall meet with communication infrastructure providers in an effort to develop a mutually agreeable plan for public safety outage management notification protocols and format.

(h) A description of the standard for vegetation management to be used by the electric utility and, if that standard exceeds any other standard for vegetation management required by any applicable statute or regulation, a description of how and why the standard exceeds those requirements.

(i) A description of the standard for patrols and detailed inspections of electric utility infrastructure and, if that standard exceeds any other standard for such patrols and inspections required by any applicable statute or regulation, a description of how and why the standard exceeds those requirements.

(j) A description of the actions that the electric utility will take to ensure that its system will achieve a reasonable level of safety, reliability and resiliency and to ensure that its system is prepared for a natural disaster, including, without limitation, vegetation management, patrols, inspections, testing, and hardening and modernizing its infrastructure with improved engineering, system design, standards, equipment and facilities, such as undergrounding, insulation of distribution wires, pole replacement and other measures. An electric utility shall use prudent practices commonly used in the electric utility industry for utility design, operating practices and telecommunications to prevent its infrastructure from causing a fire and to maintain resiliency during a natural disaster.

(k) An explanation that the electric utility has an adequately sized and trained workforce to execute the natural disaster protection plan and promptly restore service after a major event, taking into account employees of other utilities available to the electric utility pursuant to mutual aid agreements and employees of entities with which the electric utility has entered into contracts.

(l) A description of how the natural disaster protection plan is consistent with the emergency response plan submitted by the electric utility pursuant to NRS 239C.270.

(m) 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.

(n) A description of the participation of the electric utility, including, without limitation, any commitments made, in any community wildfire protection plans, as defined in 16 U.S.C. § 6511, established in this State.

*(o) A description of the time frame in which the electric utility anticipates each element described in paragraphs (a) to (n), inclusive, will become part of the normal course of business for the electric utility.*

3. For each element that an electric utility is required by subsection 2 to include in its natural disaster protection plan, the electric utility shall include in its natural disaster protection plan:

(a) An identification of how the element is expected to reduce:

(1) Ignition events in high fire risk areas and extreme fire risk areas during critical fire weather conditions; and

(2) Equipment damage and loss of power caused by a natural disaster;

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

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

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

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

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

(4) The Division of Emergency Management of the Office of the Military.

4. In addition to the information that an electric utility is required by subsections 2 and 3 to include in its natural disaster protection plan, the electric utility shall include in its natural disaster protection plan:

(a) A summary of the projected 3-year budget for the natural disaster protection plan, an identification of the projected cost elements of the plan and the projected cost for each element that the electric utility is required by subsection 2 to include in the plan;

(b) If two or more electric utilities submit a joint natural disaster protection plan, the proposed *allocation of* joint ~~and direct allocation of~~ costs between the service territories of the electric utilities; ~~and~~

(c) *A budget for the assignment of direct costs that are expected to be incurred in the service territory of the electric utility and a proposed allocation of common costs within the electric utility; and*

(d) Annual data tracking trends associated with:

(1) Ignition events, separated for ignition events:

(I) During critical fire weather conditions and during all other days in high and extreme risk fire areas; and

(II) The involvement of transmission or distribution infrastructure; and

(2) Equipment damage and loss of power caused by natural disasters.

**Sec. 11.** Section 10 of LCB File No. R085-19 is hereby amended to read as follows:

Sec. 10. 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 7 of LCB File No. R085-19, the electric utility ~~may~~ *shall* 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. 12.** Section 12 of LCB File No. R085-19 is hereby amended to read as follows:

NEW FIRST  
PARALLEL  
SECTION

Sec. 12. 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. *An electric utility shall designate the expenditures tracked and accounted for pursuant to subsection 1 as direct costs, joint costs or common costs.*

3. 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 NRS 704.7983. *The electric utility must demonstrate that the expenditures are incremental to the costs incurred in the normal course of business and are not otherwise recovered in rates.* 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. 13.** Section 12 of LCB File No. R085-19 is hereby amended to read as follows:

Sec. 12. 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. An electric utility shall designate the expenditures tracked and accounted for pursuant to subsection 1 as direct costs, joint costs or common costs.

3. ~~{On or before March 1 of each year, an}~~ *An* electric utility shall ~~{submit to the Commission an}~~ *include in its general rate* application *filed pursuant to NRS 704.110 a request* 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 NRS 704.7983.

~~The electric utility must demonstrate that the expenditures are incremental to the costs incurred in the normal course of business and are not otherwise recovered in rates. The Commission will issue a final decision on the application not later than 180 days after the date on which the application was submitted.~~ *request must:*

*(a) Include a separate rate to recover the cost of prudent and reasonable expenditures made by the electric utility to develop and implement the natural disaster protection plan during the most recent 12 months for which data were available when the general rate application was prepared, which rate must be calculated separately from other rates contained within the general rate application.*

*(b) Demonstrate that all of the expenditures used to calculate the rate pursuant to paragraph (a) are incremental to the costs incurred in the normal course of business or are otherwise directly related to the mitigation of natural disasters by the electric utility in accordance with the natural disaster protection plan.*

*4. On or before June 1 of each year in which an electric utility does not file a general rate application pursuant to NRS 704.110, an electric utility shall submit to the Commission an application to adjust any rate established pursuant to this section to address the over-recovery or under-recovery of the actual cost of prudent and reasonable expenditures made by the electric utility to develop and implement the natural disaster protection plan during the immediately preceding year. The Commission will issue a final decision on the application not later than 210 days after the date on which the application was submitted.*

**Sec. 14.** Section 13 of LCB File No. R085-19 is hereby amended to read as follows:

Sec. 13. 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 1 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 plant in service, 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 included in the natural disaster protection plan pursuant to paragraph (c) of subsection 2 of NRS 704.7983.

(c) Actual incremental monthly operations and maintenance costs *in excess of the costs incurred in the normal course of business that are* incurred to carry out the natural disaster protection plan.

(d) Carrying charges on the *actual incremental costs in excess of the costs incurred in the normal course of business as* 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 separately identified and 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. 15.** 1. This section and sections 1 to 12, inclusive, and 14 of this regulation become effective on the date on which this regulation is filed with the Secretary of State.

2. Section 13 of this regulation becomes effective on the later of:

(a) March 2, 2024; or

(b) The date on which this regulation is filed with the Secretary of State.