

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

LCB File No. R181-24

August 15, 2024

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

AUTHORITY: §§ 1-8, 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; requiring an electric utility to submit a progress report concerning the natural disaster protection plan; revising provisions governing the creation of a regulatory asset or liability account for certain costs incurred to carry out the natural disaster protection plan; revising provisions governing the clearance of the accumulated balance in certain regulatory asset or liability accounts; 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. Existing regulations require a natural disaster protection plan 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 5** of this regulation revises the information which is required to be included in a natural disaster protection plan.

Section 2 of this regulation defines the term “element of a natural disaster protection plan that is incremental to the normal course of business of the electric utility” for the purpose of determining the expenditures made by the electric utility that may be recovered through rates. **Section 4** of this regulation makes this definition applicable to existing regulations and makes the definitions in existing regulations apply to new sections created by this regulation.

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 7** of this regulation requires an electric utility, or two or more affiliated electric utilities that share a jointly-filed natural disaster protection plan, until and including March 1, 2025, to submit annually an application to recover the cost of prudent and reasonable expenditures made by the electric utility or utilities to develop and implement any element of a

natural disaster protection plan that is incremental to the normal course of business of the electric utility. **Section 7** requires an electric utility, after March 1, 2025, to include an application 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 7** establishes requirements for the allocation of such costs between affiliated electric utilities that share a jointly-filed natural disaster protection plan.

Section 3 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 prudent and reasonable expenditures made by the electric utility.

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 6** of this regulation makes the filing of this progress report mandatory and specifies that the progress report is informational.

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) Existing regulations require an electric utility to submit to the Commission an annual request to clear the accumulated balance in such a regulatory asset or liability account. (Section 13 of LCB File No. R085-19) **Section 8** of this regulation authorizes the creation of a separate regulatory asset or liability account only until the electric utility files its initial application to recover the cost of prudent and reasonable expenditures made by the electric utility to develop and implement the natural disaster protection plan as part of the general rate application filed by the electric utility. **Section 8** revises certain amounts which are required to be recorded in a regulatory asset or liability account.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *“Element of a natural disaster protection plan that is incremental to the normal course of business of the electric utility” means a program or activity included in an approved natural disaster protection plan the cost of which is not otherwise reflected in the rates of an electric utility.*

Sec. 3. 1. *An electric utility which files an application pursuant to subsection 2 or 4 of section 12 of LCB File No. R085-19 to recover the cost of prudent and reasonable expenditures made by the electric utility to develop and implement an element of a natural disaster protection plan that is incremental to the normal course of business of the electric*

utility 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) Provide answers to the questions in the master document based on the available applicable data.

(b) Concurrently with the submission of the application pursuant to section 12 of LCB File No. R085-19, provide the electronic executable files with all links intact for any schedules submitted in the master document for the request of data to:

(1) The Commission;

(2) The Consumer's Advocate; and

(3) The Regulatory Operations Staff of the Commission.

(c) Provide the electronic executable files with all links intact for any schedules submitted in the master document for the request of data to any person who has been granted leave to intervene within 2 calendar days after the person is granted leave to intervene by 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. 4. 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 and 3 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 section 2 of this regulation* have the meanings ascribed to them in those sections.

Sec. 5. 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 *and analysis* 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 *and analysis* 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 ~~H~~ *and costs to ratepayers*.

(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 *timelines*, 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 *, as soon as practicable,* 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) An identification of any element of the natural disaster protection plan that is incremental to the normal course of business of 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 ~~†~~ *that measures the reduction in the risk of natural disaster resulting from the implementation of 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 ~~Department of Public Safety.~~ *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) *The projected costs, including, without limitation, supporting documentation and analysis, of any element of the natural disaster protection plan that is incremental to the normal course of business of the electric utility;*

(c) *The projected impact of the elements of the plan on rates;*

(d) If two or more electric utilities submit a joint natural disaster protection plan, the proposed ~~joint and direct~~ allocation of *the* costs *identified in paragraph (b)* between the service territories of the electric utilities ~~it~~, *consistent with the requirements for the allocation of such costs pursuant to subsection 3 or 5, as applicable, of section 12 of LCB File No. R085-19*; and

~~(e)~~ (e) 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. 6. 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 ~~it~~ *an informational* 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. 7. 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. On or before March 1 of each year, *until and including March 1, 2025*, an electric utility *or, if two or more affiliated electric utilities share a jointly-filed natural disaster protection plan, the affiliated electric utilities* shall submit to the Commission an application to recover the cost of prudent and reasonable expenditures made by the electric utility *or utilities* during the immediately preceding year to develop and implement ~~the~~ *any element of a* natural disaster protection plan ~~of the electric utility pursuant to subsection 6 of NRS 704.7983.~~ *that is incremental to the normal course of business of the electric utility or utilities. The electric utility or utilities must demonstrate that the expenditures are incremental to the costs incurred in the normal course of business.* The Commission will issue a final decision on the application not later than ~~180~~ *210* days after the date on which the application was submitted.

3. *For an application submitted pursuant to subsection 2 that is submitted jointly by affiliated electric utilities, the costs of the incremental expenditures must be allocated based on where the expenditures occurred, with the costs of investments made within the service territory of an electric utility being allocated entirely to the customers of that electric utility. For expenditures applicable to service territories of multiple electric utilities, including, without limitation, manager salaries, the application must clearly identify the methodology used to allocate the cost of such expenditures between the electric utilities.*

4. *An electric utility shall include in each general rate application filed pursuant to NRS 704.110 on or after March 2, 2025, an application to recover the cost of prudent and reasonable expenditures made by the electric utility to develop and implement any element of a natural disaster protection plan during the most recent 12 months for*

which data were available when the general rate application was prepared. The application must include a proposed separate rate to recover the costs from the customers of the electric utility through a uniform kilowatt-hour rate.

5. For an application filed pursuant to subsection 4 by an electric utility that shares a jointly-filed natural disaster protection plan with an affiliated electric utility:

(a) The proposed separate rate shall be set to recover:

(1) The cost of all capital investments made within the service territory of the electric utility filing the request; and

(2) The cost of operations, maintenance, administrative and general expenses within the service territory of the electric utility filing the request.

(b) For expenditures described in subparagraph (2) of paragraph (a) that are applicable to the service territories of multiple electric utilities, including, without limitation, manager salaries, the request must clearly identify the methodology used to allocate such expenditures between the electric utilities.

Sec. 8. Section 13 of LCB File No. R085-19 is hereby amended to read as follows:

Sec. 13. 1. ~~{An}~~ *Until an electric utility files its initial application pursuant to subsection 4 of section 12 of LCB File No. R085-19, the* electric utility may, upon placing into operation a new capital project constructed or acquired by and owned by the electric utility pursuant to *an element of* a natural disaster protection plan ~~{H}~~ *that is incremental to the normal course of business of the electric utility,* 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 *or decremental* monthly operations and maintenance costs , *in comparison to the costs incurred by the electric utility in the normal course of business, that are* incurred to carry out the natural disaster protection plan.

(d) Carrying charges on the costs described in paragraph (c) at the most recently authorized rate of return ~~{H}~~, *excluding the equity component of such 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.}~~ *until included in a rate established pursuant to section 12 of LCB File No. R085-19. Once costs have been transferred from the regulatory asset or liability account into rates, the electric utility shall cease recording the amounts described in subsection 2 in the regulatory asset or liability account.*

4. An electric utility shall ~~{annually submit}~~ *include in each application submitted* to the Commission *pursuant to section 12 of LCB File No. R085-19* 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) *The projected impact of the recovery requested on the amounts billed to customers; and*

(d) Proposed rate design and rates by customer class ~~for the annual recovery requested~~ ~~in~~ *as* a separate line item on a customer's bill.