

THE NINETY-SECOND DAY

CARSON CITY (Monday), May 9, 2011

Senate called to order at 11:20 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Yesterday was a special day when we honored our mothers.

Thank You Lord for all the mothers, here in the Legislature and all across America. The mothers and the grandmothers here in the Senate have families at home, please watch over them.

Thank You for those who are at the work place, faithfully providing for their families. As they balance deadlines, coworkers, supervisors and all the duties that fill their days, give them a sense of peace about their childrens' care and well being.

Bless the people who are watching the children of these mothers at work. Help all mothers and grandmothers, wherever they may be, to appreciate each other's sacrifices and to respect their different decisions. Certainly, all mothers are deserving of our greatest thanks and admiration.

AMEN.

Pledge of Allegiance to the Flag.

Senator Wiener moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 9, 107, 161, 244, 269, 284, 321, 408, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which were referred Assembly Bills Nos. 109, 271, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

VALERIE WIENER, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 497, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DAVID R. PARKS, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bill No. 75 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 445.

Bill read second time and ordered to third reading.

Senate Bill No. 450.

Bill read second time and ordered to third reading.

Senate Bill No. 472.

Bill read second time and ordered to third reading.

Senate Bill No. 481.

Bill read second time and ordered to third reading.

Assembly Bill No. 6.

Bill read second time and ordered to third reading.

Assembly Bill No. 57.

Bill read second time and ordered to third reading.

Assembly Bill No. 150.

Bill read second time and ordered to third reading.

Assembly Bill No. 194.

Bill read second time and ordered to third reading.

Assembly Bill No. 215.

Bill read second time.

The following amendment was proposed by the Committee on Commerce, Labor and Energy:

Amendment No. 569.

"SUMMARY—Revises provisions governing utilities. (BDR 58-593)"

"AN ACT relating to utilities; authorizing certain public utilities that purchase natural gas for resale and electric utilities to request approval from the Public Utilities Commission of Nevada to make quarterly rate adjustments based on deferred accounting; requiring that written notices which are provided to customers of certain public utilities that purchase natural gas for resale and electric utilities contain information about the review of certain quarterly rate adjustments by the Commission; authorizing the Commission to allow public utilities that purchase natural gas for resale and electric utilities to apply for certain additional rate adjustments upon a showing of good cause; prohibiting public utilities which purchase natural gas for resale and electric utilities from applying for certain annual rate adjustments after receiving approval from the Commission to make quarterly rate adjustments based on deferred accounting; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes certain public utilities that purchase natural gas for resale and certain electric utilities to use deferred accounting to reflect changes in the cost of purchased natural gas, fuel or power. (NRS 704.185, 704.187) **Section 5** of this bill authorizes a public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis based on the fluctuating price of natural gas to request

approval to make quarterly adjustments to its deferred energy accounting adjustment. **Section 5** also authorizes an electric utility that is required to make quarterly adjustments based on the fluctuating price of fuel or power to request approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. **Section 5** further requires a utility that receives approval to make any quarterly adjustments to provide its customers with written notice that includes information relating to when the adjustments will be reviewed by the Commission. **Section 5** also authorizes the Commission to approve, upon a showing of good cause, certain additional quarterly adjustments for a public utility which purchases natural gas for resale and an electric utility which has received approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. **Sections 6 and 7** of this bill provide that a public utility which purchases natural gas for resale or an electric utility which has received approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment is not eligible to apply for any additional adjustment to its deferred energy accounting adjustment in its annual deferred energy accounting adjustment application.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 703.320 is hereby amended to read as follows:

703.320 Except as otherwise provided in subsections ~~8 and~~ **9 and 11** of NRS 704.110:

1. In any matter pending before the Commission, if a hearing is required by a specific statute or is otherwise required by the Commission, the Commission shall give notice of the pendency of the matter to all persons entitled to notice of the hearing. The Commission shall by regulation specify:

- (a) The manner of giving notice in each type of proceeding; and
- (b) The persons entitled to notice in each type of proceeding.

2. The Commission shall not dispense with a hearing:

(a) In any matter pending before the Commission pursuant to NRS 704.7561 to 704.7595, inclusive; or

(b) Except as otherwise provided in paragraph (f) of subsection 1 of NRS 704.100, in any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an annual deferred energy accounting adjustment application pursuant to NRS 704.187.

3. In any other matter pending before the Commission, the Commission may dispense with a hearing and act upon the matter pending unless, within 10 days after the date of the notice of pendency, a person entitled to notice of the hearing files with the Commission a request that the hearing be held. If such a request for a hearing is filed, the Commission shall give at least 10 days' notice of the hearing.

4. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 2. NRS 704.062 is hereby amended to read as follows:

704.062 "Application to make changes in any schedule" and "application" include, without limitation:

1. A general rate application;
2. An application to recover the ~~increased~~ cost of purchased fuel, purchased power, or natural gas purchased for resale; ~~and~~
3. An annual deferred energy accounting adjustment application ~~+~~; **and**
4. ***An annual rate adjustment application.***

Sec. 3. NRS 704.069 is hereby amended to read as follows:

704.069 1. Except as otherwise provided in subsections ~~8 and~~ **9 and 11** of NRS 704.110, the Commission shall conduct a consumer session to solicit comments from the public in any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which:

(a) A public utility has filed a general rate application, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale, an annual deferred energy accounting adjustment application pursuant to NRS 704.187 or an annual rate adjustment application; and

(b) The changes proposed in the application will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that will exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less.

2. In addition to the case-specific consumer sessions required by subsection 1, the Commission shall, during each calendar year, conduct at least one general consumer session in the county with the largest population in this State and at least one general consumer session in the county with the second largest population in this State. At each general consumer session, the Commission shall solicit comments from the public on issues concerning public utilities. Not later than 60 days after each general consumer session, the Commission shall submit the record from the general consumer session to the Legislative Commission.

Sec. 4. NRS 704.100 is hereby amended to read as follows:

704.100 1. Except as otherwise provided in NRS 704.075 and 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097:

(a) A public utility shall not make changes in any schedule, unless the public utility:

(1) Files with the Commission an application to make the proposed changes and the Commission approves the proposed changes pursuant to NRS 704.110; or

(2) Files the proposed changes with the Commission using a letter of advice in accordance with the provisions of paragraph (f).

(b) A public utility shall adjust its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8 of NRS 704.110

based on changes in the public utility's recorded costs of natural gas purchased for resale.

(c) An electric utility shall, between annual deferred energy accounting adjustment applications filed pursuant to NRS 704.187, adjust its rates on a quarterly basis pursuant to subsection ~~10~~ **10** of NRS 704.110.

(d) A public utility shall post copies of all proposed schedules and all new or amended schedules in the same offices and in substantially the same form, manner and places as required by NRS 704.070 for the posting of copies of schedules that are currently in force.

(e) A public utility may not set forth as justification for a rate increase any items of expense or rate base that previously have been considered and disallowed by the Commission, unless those items are clearly identified in the application and new facts or considerations of policy for each item are advanced in the application to justify a reversal of the prior decision of the Commission.

(f) Except as otherwise provided in paragraph (g), if the proposed change in any schedule does not change any rate or will result in an increase in annual gross operating revenue, as certified by the public utility, in an amount that does not exceed \$2,500:

(1) The public utility may file the proposed change with the Commission using a letter of advice in lieu of filing an application; and

(2) The Commission shall determine whether it should dispense with a hearing regarding the proposed change.

(g) If the applicant is a small-scale provider of last resort and the proposed change in any schedule will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that does not exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less, the Commission shall determine whether it should dispense with a hearing regarding the proposed change.

(h) In making the determination pursuant to paragraph (f) or (g), the Commission shall first consider all timely written protests, any presentation that the Regulatory Operations Staff of the Commission may desire to present, the application of the public utility and any other matters deemed relevant by the Commission.

2. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 5. NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 and 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097:

1. If a public utility files with the Commission an application to make changes in any schedule, including, without limitation, changes that will result in a discontinuance, modification or restriction of service, the Commission shall investigate the propriety of the proposed changes to determine whether to approve or disapprove the proposed changes. If an

electric utility files such an application and the application is a general rate application or an annual deferred energy accounting adjustment application, the Consumer's Advocate shall be deemed a party of record.

2. Except as otherwise provided in subsection 3, if a public utility files with the Commission an application to make changes in any schedule, the Commission shall, not later than 210 days after the date on which the application is filed, issue a written order approving or disapproving, in whole or in part, the proposed changes.

3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. Except as otherwise provided in subsection 4, in determining whether to approve or disapprove any increased rates, the Commission shall consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the date on which the certification required by this subsection is filed with the Commission, or within the period set forth in subsection 2, whichever time is longer, the Commission shall make such order in reference to the increased rates as is required by this chapter. The following public utilities shall each file a general rate application pursuant to this subsection based on the following schedule:

(a) An electric utility that primarily serves less densely populated counties shall file a general rate application not later than 5 p.m. on or before the first Monday in June 2010, and at least once every 36 months thereafter.

(b) An electric utility that primarily serves densely populated counties shall file a general rate application not later than 5 p.m. on or before the first Monday in June 2011, and at least once every 36 months thereafter.

(c) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of \$2,000,000 or more for at least 1 year during the immediately preceding 3 years and which had not filed a general

rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2008, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service.

(d) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of \$2,000,000 or more for at least 1 year during the immediately preceding 3 years and which had filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2009, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service.

↪ The Commission shall adopt regulations setting forth standards for waivers pursuant to paragraphs (c) and (d) and for including the costs incurred by the public utility in preparing and presenting the general rate application before the effective date of any change in rates.

4. In addition to submitting the statement required pursuant to subsection 3, a public utility may submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances. If such a statement is filed, it must include all increases and decreases in revenue and expenses which may occur within 210 days after the date on which its general rate application is filed with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy. If a public utility submits such a statement, the public utility has the burden of proving that the expected changes in circumstances set forth in the statement are reasonably known and are measurable with reasonable accuracy. The Commission shall consider expected changes in circumstances to be reasonably known and measurable with reasonable accuracy if the expected changes in circumstances consist of specific and identifiable events or programs rather than general trends, patterns or developments, have an objectively high probability of occurring to the degree, in the amount and at the time expected, are primarily measurable by recorded or verifiable revenues and expenses and are easily and objectively calculated, with the calculation of the expected changes relying only secondarily on estimates, forecasts, projections or budgets. If the Commission determines that the public utility has met its burden of proof:

(a) The Commission shall consider the statement submitted pursuant to this subsection and evidence relevant to the statement, including all reasonable projected or forecasted offsets in revenue and expenses that are directly attributable to or associated with the expected changes in circumstances under consideration, in addition to the statement required pursuant to subsection 3 as evidence in establishing just and reasonable rates for the public utility; and

(b) The public utility is not required to file with the Commission the certification that would otherwise be required pursuant to subsection 3.

5. If a public utility files with the Commission an application to make changes in any schedule and the Commission does not issue a final written order regarding the proposed changes within the time required by this section, the proposed changes shall be deemed to be approved by the Commission.

6. If a public utility files with the Commission a general rate application, the public utility shall not file with the Commission another general rate application until all pending general rate applications filed by that public utility have been decided by the Commission unless, after application and hearing, the Commission determines that a substantial financial emergency would exist if the public utility is not permitted to file another general rate application sooner. The provisions of this subsection do not prohibit the public utility from filing with the Commission, while a general rate application is pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection 7, a quarterly rate adjustment pursuant to subsection 8 or ~~9~~ **10**, any information relating to deferred accounting requirements pursuant to NRS 704.185 or an annual deferred energy accounting adjustment application pursuant to NRS 704.187, if the public utility is otherwise authorized to so file by those provisions.

7. A public utility may file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale once every 30 days. The provisions of this subsection do not apply to:

(a) An electric utility which is required to adjust its rates on a quarterly basis pursuant to subsection ~~9~~ **10**; or

(b) A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis ~~between annual rate adjustment applications~~ pursuant to subsection 8.

8. A public utility which purchases natural gas for resale must request approval from the Commission to adjust its rates on a quarterly basis between annual rate adjustment applications based on changes in the public utility's recorded costs of natural gas purchased for resale. *A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis may request approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. The Commission shall approve or deny such a request not later than 120 days after the*

application is filed with the Commission. The Commission may approve the request if the Commission finds that ~~the quarterly adjustment~~ approval of the request is in the ~~best interest of the~~ public ~~and~~ interest. If the Commission approves a request to make quarterly adjustments to the deferred energy accounting adjustment of a public utility pursuant to this subsection, any quarterly adjustment to the deferred energy accounting adjustment must not exceed 2.5 cents per therm of natural gas. ~~The Commission shall not approve a deferred energy accounting adjustment if~~ If the balance of the public utility's deferred account varies by less than 5 percent from the public utility's annual recorded costs of natural gas which are used to calculate quarterly rate adjustments ~~and~~, the deferred energy accounting adjustment must be set to zero cents per therm of natural gas.

9. If the Commission approves ~~such~~ a request ~~to~~ *to make any rate adjustments on a quarterly basis pursuant to subsection 8:*

(a) The public utility shall file written notice with the Commission before the public utility makes a quarterly rate adjustment. ~~between annual rate adjustment applications.~~ A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the public utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; ~~and~~

(IV) *A statement that the transactions and recorded costs of natural gas which are the basis for any quarterly rate adjustment will be reviewed for reasonableness and prudence in the next proceeding held by the Commission to review the annual rate adjustment application pursuant to paragraph (d); and*

(V) Any other information required by the Commission.

(c) The public utility shall file an annual rate adjustment application with the Commission. The annual rate adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual rate adjustment application must include a review of each quarterly rate adjustment ~~for each deferred energy accounting adjustment~~ and ~~a review of~~ the transactions and recorded costs of natural gas included in each quarterly ~~rate adjustment~~ **filing** and the annual rate adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the public utility, and the Commission shall order the public utility to adjust its rates if the Commission determines that any recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application were not reasonable or prudent.

~~9.~~ **10.** An electric utility shall adjust its rates on a quarterly basis based on changes in the ~~public~~ **electric** utility's recorded costs of purchased fuel or purchased power. ~~in the following manner:~~ ***In addition to adjusting its rates on a quarterly basis, an electric utility may request approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. The Commission shall approve or deny such a request not later than 120 days after the application is filed with the Commission. The Commission may approve the request if the Commission finds that ~~the quarterly adjustment~~ approval of the request is in the ~~best interest of the~~ public ~~and~~ interest. If the Commission approves a request to make quarterly adjustments to the deferred energy accounting adjustment of an electric utility pursuant to this subsection, any quarterly adjustment to the deferred energy accounting adjustment must not exceed 0.25 cents per kilowatt-hour of electricity. ~~The Commission shall not approve a deferred energy accounting adjustment if~~ If the balance of the electric utility's deferred account varies by less than 5 percent from the electric utility's annual recorded costs for purchased fuel or purchased power which are used to calculate quarterly rate adjustments ~~and~~, the deferred energy accounting adjustment must be set to zero cents per kilowatt-hour of electricity.***

11. ~~A quarterly rate adjustment to a deferred energy accounting adjustment~~ filed pursuant to subsection 10 is subject to the following requirements:

(a) ~~Am~~ **The** electric utility shall file written notice with the Commission on or before August 15, 2007, and every quarter thereafter of the quarterly rate adjustment to be made by the electric utility for the following quarter. The first quarterly rate adjustment by the electric utility will take effect on October 1, 2007, and each subsequent quarterly rate adjustment will take effect every quarter thereafter. ***The first quarterly adjustment to a deferred energy accounting adjustment must be made pursuant to an order issued by the Commission approving the application of an electric utility to make quarterly adjustments to its deferred energy accounting adjustment. A quarterly rate adjustment ~~to a deferred energy accounting adjustment~~ is not*** subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) ~~Each~~ **The** electric utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The electric utility shall begin providing such written notice to its customers not later than 30 days after the date on which the electric utility files a written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the electric utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; ~~and~~

(IV) ***A statement that the transactions and recorded costs of purchased fuel or purchased power which are the basis for any quarterly rate adjustment will be reviewed for reasonableness and prudence in the next proceeding held by the Commission to review the annual deferred energy accounting adjustment application pursuant to paragraph (d); and***

(V) Any other information required by the Commission.

(c) ~~Am~~ **The** electric utility shall file an annual deferred energy accounting adjustment application pursuant to NRS 704.187 with the Commission. The annual deferred energy accounting adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual deferred energy accounting adjustment application must include a review of each quarterly rate adjustment ~~for each deferred energy accounting adjustment~~ and ~~a review of~~

the transactions and recorded costs of purchased fuel and purchased power included in each quarterly ~~rate adjustment~~ **filing** and the annual deferred energy accounting adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application, and the electric utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the electric utility to recover any recorded costs of purchased fuel and purchased power which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the electric utility, and the Commission shall order the electric utility to adjust its rates if the Commission determines that any recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application were not reasonable or prudent.

~~10~~ **12.** If an electric utility files an annual deferred energy accounting adjustment application pursuant to subsection ~~9~~ **11** and NRS 704.187 while a general rate application is pending, the electric utility shall:

(a) Submit with its annual deferred energy accounting adjustment application information relating to the cost of service and rate design; and

(b) Supplement its general rate application with the same information, if such information was not submitted with the general rate application.

~~11~~ **13.** A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the Commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing such a facility.

~~12~~ **14.** In regard to any rate or schedule approved or disapproved pursuant to this section, the Commission may, after a hearing:

(a) Upon the request of the utility, approve a new rate but delay the implementation of that new rate:

(1) Until a date determined by the Commission; and

(2) Under conditions as determined by the Commission, including, without limitation, a requirement that interest charges be included in the collection of the new rate; and

(b) Authorize a utility to implement a reduced rate for low-income residential customers.

~~13~~ **15.** *The Commission may, upon request and for good cause shown, permit a public utility which purchases natural gas for resale or an electric utility to make a quarterly adjustment to its deferred energy accounting adjustment in excess of the maximum allowable adjustment pursuant to subsection 8 or 10.*

16. A public utility which purchases natural gas for resale or an electric utility that makes quarterly adjustments to its deferred energy accounting adjustment pursuant to subsection 8 or 10 may submit to the Commission for approval an application to discontinue making quarterly adjustments to its deferred energy accounting adjustment and to subsequently make annual adjustments to its deferred energy accounting adjustment. The Commission may approve an application submitted pursuant to this subsection if the Commission finds that approval of the application is in the ~~best interest of the~~ public ~~interest.~~

17. As used in this section:

(a) **"Deferred energy accounting adjustment" means the rate of a public utility which purchases natural gas for resale or an electric utility that is calculated by dividing the balance of a deferred account during a specified period by the total therms or kilowatt-hours which have been sold in the geographical area to which the rate applies during the specified period.**

(b) "Electric utility" has the meaning ascribed to it in NRS 704.187.

~~{(b)}~~ (c) "Electric utility that primarily serves densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 400,000 or more than it does from customers located in counties whose population is less than 400,000.

~~{(c)}~~ (d) "Electric utility that primarily serves less densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is less than 400,000 than it does from customers located in counties whose population is 400,000 or more.

Sec. 6. NRS 704.185 is hereby amended to read as follows:

704.185 1. Except as otherwise provided in subsection 8 of NRS 704.110, a public utility which purchases natural gas for resale may record upon its books and records in deferred accounts all cost increases or decreases in the natural gas purchased for resale. Any public utility which uses deferred accounting to reflect changes in costs of natural gas purchased for resale shall include in its annual report to the Commission a statement showing the allocated rate of return for each of its operating departments in Nevada which uses deferred accounting.

2. ~~If the rate of return for any department using deferred accounting pursuant to subsection 1 is greater than the rate of return allowed by the Commission in the last rate proceeding, the Commission shall order the utility which recovered any costs of natural gas purchased for resale through rates during the reported period to transfer to the next energy adjustment period that portion of such recovered amounts which exceeds the authorized rate of return.~~

~~—3—~~ A public utility which purchases natural gas for resale may request approval from the Commission to record upon its books and records in deferred accounts any other cost or revenue which the Commission deems appropriate for deferred accounting and which is not otherwise subject to the provisions of ~~subsections~~ **subsection 1** . ~~and 2.~~ If the Commission approves such a request, the Commission shall determine the appropriate requirements for reporting and recovery that the public utility must follow with regard to each such deferred account.

~~4.~~ 3. When a public utility which purchases natural gas for resale files an **annual rate adjustment application or an annual deferred energy accounting adjustment** application , ~~to clear its deferred accounts,~~ the proceeding regarding the application must include a review of the transactions and recorded costs of natural gas included in the application. There is no presumption of reasonableness or prudence for any transactions or recorded costs of natural gas included in the application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.

4. A public utility which purchases natural gas for resale and which has received approval from the Commission to make quarterly adjustments to a deferred energy accounting adjustment pursuant to subsection 8 of NRS 704.110 is not eligible to request an adjustment to its deferred energy accounting adjustment in its annual rate adjustment application.

Sec. 7. NRS 704.187 is hereby amended to read as follows:

704.187 1. An electric utility that purchases fuel or power shall use deferred accounting by recording upon its books and records in deferred accounts all increases and decreases in costs for purchased fuel and purchased power that are prudently incurred by the electric utility.

2. An electric utility using deferred accounting shall include in its annual report to the Commission a statement showing, for the period of recovery, the allocated rate of return for each of its operating departments in this State using deferred accounting. ~~If, during the period of recovery, the rate of return for any operating department using deferred accounting is greater than the rate of return authorized by the Commission in the most recently completed rate proceeding for the electric utility, the Commission shall order the electric utility that recovered costs for purchased fuel or purchased power through its rates during the reported period to transfer to the next energy adjustment period that portion of the amount recovered by the electric utility that exceeds the authorized rate of return.~~

3. Except as otherwise provided in this section, an electric utility using deferred accounting shall file an annual deferred energy accounting adjustment application on or before March 1, 2008, and on or before March 1 of each year thereafter.

4. An electric utility that purchases fuel or power and has received approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment pursuant to

subsection 10 of NRS 704.110 is not eligible to request an adjustment to its deferred energy accounting adjustment in its annual deferred energy accounting adjustment application.

5. As used in this section:

(a) "Annual deferred energy accounting adjustment application" means an application filed by an electric utility pursuant to this section and subsection ~~9~~ **11** of NRS 704.110.

(b) "Costs for purchased fuel and purchased power" means all costs which are prudently incurred by an electric utility and which are required to purchase fuel, to purchase capacity and to purchase energy. The term does not include any costs that the Commission determines are not recoverable pursuant to subsection ~~9~~ **11** of NRS 704.110.

(c) "Electric utility" means any public utility or successor in interest that:

(1) Is in the business of providing electric service to customers;

(2) Holds a certificate of public convenience and necessity issued or transferred pursuant to this chapter; and

(3) In the most recently completed calendar year or in any other calendar year within the 7 calendar years immediately preceding the most recently completed calendar year, had a gross operating revenue of \$250,000,000 or more in this State.

↪ The term does not include a cooperative association, nonprofit corporation, nonprofit association or provider of electric service which is declared to be a public utility pursuant to NRS 704.673 and which provides service only to its members.

Sec. 8. This act becomes effective upon passage and approval.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

Senator Schneider requested that his remarks be entered in the Journal.

Amendment No. 569 to Assembly Bill No. 215 makes some clarifying changes to the language regarding deferred energy accounting adjustments filed with the Public Utilities Commission of Nevada.

This is the amount of money built up in the fund by both Southwest Gas and NV Energy. It amounts to a lot of money and they would like to refund it to the customers sooner.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 226.

Bill read second time and ordered to third reading.

Assembly Bill No. 350.

Bill read second time and ordered to third reading.

Assembly Bill No. 352.

Bill read second time and ordered to third reading.

Assembly Bill No. 355.

Bill read second time and ordered to third reading.

Assembly Bill No. 429.

Bill read second time and ordered to third reading.

Assembly Bill No. 441.

Bill read second time and ordered to third reading.

Assembly Bill No. 538.

Bill read second time and ordered to third reading.

Assembly Bill No. 556.

Bill read second time and ordered to third reading.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 11:47 a.m.

SENATE IN SESSION

At 1:14 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bill No. 211 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Parks moved that Senate Bill No. 497 just reported out of committee be placed on the Second Reading File for this legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 497.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 25.

Bill read third time.

Roll call on Assembly Bill No. 25:

YEAS—21.

NAYS—None.

Assembly Bill No. 25 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 36.

Bill read third time.

Roll call on Assembly Bill No. 36:

YEAS—21.

NAYS—None.

Assembly Bill No. 36 having received a constitutional majority,
Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 102.

Bill read third time.

Roll call on Assembly Bill No. 102:

YEAS—21.

NAYS—None.

Assembly Bill No. 102 having received a constitutional majority,
Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 181.

Bill read third time.

Roll call on Assembly Bill No. 181:

YEAS—21.

NAYS—None.

Assembly Bill No. 181 having received a constitutional majority,
Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 201.

Bill read third time.

Roll call on Assembly Bill No. 201:

YEAS—21.

NAYS—None.

Assembly Bill No. 201 having received a constitutional majority,
Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 214.

Bill read third time.

Roll call on Assembly Bill No. 214:

YEAS—21.

NAYS—None.

Assembly Bill No. 214 having received a constitutional majority,
Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 537.

Bill read third time.

Roll call on Assembly Bill No. 537:

YEAS—21.

NAYS—None.

Assembly Bill No. 537 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Copening, the privilege of the Floor of the Senate Chamber for this day was extended to Askar Chukmaitov.

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to the following students and chaperones from the Katherine Dunn Elementary School: Jacob Baldwin, Anthony Berumen, Bianca Beterano, Elaina Brito, Kyla Burbank, Eugenio Chavez, Ricardo Cortez, Issac Echegoyen, Emily Fernandez, Keith Ferrer, Alyssa Garcia, Tony Geronimo, Anthony Gomez Martinez, Jose Gonzalez, Rachel Gonzalez, Sabrina Graves, Jack Griffin, Leo Guzman, Kenzie Hawley, Juan Hernandez, Celestina Jimenez, Sam Kerivan, Katie Kuczynski, Austin Lewis, Dakota Lora, David Mahe, Genae Marcantonio, Alexix Marquez, Evan Martinez, Karen Martinez, Anthony Montenegro, Joey Obeirne, Irene Olivas, Gustavo Padilla Barrera, Hunter Petson, Jobany Rangel Romo, Jake Rankin, Denise Rather, Lillianna Reyes, Selma Obles, Max Schumacher, Elijah Shelton, Tallon Short, Carlee Sireika, Kyle Southworth, Anna Staggs, Britney Torres, Juan Torres Segoviano, Renee Trainer, Michael Vandeventer, Atley Weems, Kelly Wilkie, Justin Williams, Wyatt Williams, Wyatt Wormington, Whitney Hawley, Jessica Ziegler, Marquez Gabrilla, Paula Torres, Diana Reyes, Laurie Johns, Sean Higgins and Shannon Ramacciotti.

On request of Senator Leslie, the privilege of the Floor of the Senate Chamber for this day was extended to Patty Allen, Chet Bunch, Lona Domenici, Alexis DuPriest, Brooke DuPriest, Katy DuPriest, Lori DuPriest, Paige DuPriest, and Rob DuPriest.

Senator Horsford moved that the Senate adjourn until Tuesday, May 10, 2011, at 11:30 a.m.

Motion carried.

Senate adjourned at 1:36 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate