

SENATE BILL NO. 547—SENATORS BROOKS, CANNIZZARO,  
SPEARMAN, CANCELA, PARKS; DENIS, DONDERO LOOP,  
OHRENSCHALL, RATTI, WASHINGTON AND WOODHOUSE

MAY 16, 2019

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JOINT SPONSORS: ASSEMBLYMEN FRIERSON  
AND MONROE-MORENO

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Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions relating to providers of new electric resources. (BDR 58-913)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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

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AN ACT relating to energy; excluding from regulation as a public utility certain plants or equipment used by a data center; revising provisions governing the applicability of certain assessments imposed by the Public Utilities Commission of Nevada; revising the information required to be included in the integrated resource plan filed by an electric utility with the Commission; revising the criteria to be eligible to apply to the Commission to purchase energy, capacity or ancillary services from a provider of new electric resources; revising the requirements a provider of new electric resources must satisfy to be eligible to sell energy, capacity or ancillary services to eligible customers; revising the requirements an eligible customer must satisfy to be authorized to purchase energy, capacity or ancillary services from a provider of new electric resources; revising the terms and conditions for the purchase of energy, capacity or ancillary services by eligible customers who have been approved to make such purchases from a provider of new electric resources; repealing provisions governing certain agreements relating to generation assets of an electric utility; and providing other matters properly relating thereto.



**Legislative Counsel's Digest:**

**Section 2** of this bill excludes from regulation as a public utility certain plants or equipment used by a data center but only with respect to operations of the data center which consist of providing electric service.

Existing law authorizes certain customers of an electric utility to apply to the Public Utilities Commission of Nevada for approval to purchase energy, capacity and ancillary services from a provider of new electric resources. If the Commission approves such an application, the Commission is required to order such terms, conditions and payments as the Commission deems necessary and appropriate to ensure that the transaction will not be contrary to the public interest and the eligible customer is authorized to begin purchasing energy, capacity and ancillary services from the provider of new electric resources in accordance with the order of the Commission. (NRS 704B.310)

Existing law requires the Commission to levy and collect an annual mill tax on public utilities that are subject to the jurisdiction of the Commission. (NRS 704.033) Under existing law, if the Commission authorizes a customer of an electric utility to purchase energy, capacity and ancillary services from a provider of new electric resources, the Commission is required to order the customer to pay its share of the annual mill tax levied by the Commission and to pay any other tax, fee or assessment that would be due to a governmental entity had the customer continued to purchase energy, capacity or ancillary services from the electric utility. (NRS 704B.360) **Sections 3 and 21** of this bill revise this requirement by removing the requirement for an order of the Commission and, instead, imposing the requirement to pay the annual mill tax and any other taxes, fees or assessments on the customer or the provider of new electric resources, as applicable. **Section 21** further requires the customer or the provider of new electric resources, as applicable, to pay any costs, fees or rates which are imposed by the electric utility, associated with the implementation of certain public policies and determined by the Commission to be appropriate for collection from customers who purchase energy, capacity or ancillary services from a provider of new electric resources.

Existing law requires each electric utility to submit to the Commission every 3 years an integrated resource plan to increase the utility's supply of electricity or decrease the demands made on its system by its customers. (NRS 704.741) **Section 5** of this bill requires the integrated resource plan to include a proposal for annual limits on the energy and capacity that eligible customers are authorized to purchase from providers of new electric resources through transactions approved by the Commission. **Section 5** further requires the proposal to include certain information, including, without limitation, impact fees applicable to each megawatt or megawatt hour to account for certain costs. **Section 6** of this bill requires the Commission, in considering whether to approve or modify the annual limits, to consider whether the proposed limits promote safe, economic, efficient and reliable electric service and encourage the development and use of renewable energy resources.

**Section 16** of this bill prohibits a provider of new electric resources from selling energy, capacity or ancillary services to any person or governmental entity in this State unless the provider holds a license to do so issued by the Commission. **Section 9** of this bill establishes the requirements a provider of new electric resources is required to satisfy to qualify for a license and authorizes the Commission to adopt regulations requiring a provider of new electric resources to provide certain information. **Section 26** of this bill authorizes a provider of new electric resources who sold energy, capacity or ancillary services to a customer before the effective date of this bill to continue to sell energy, capacity or ancillary services to that customer without obtaining a license if the provider submits an application for a license to the Commission not later than 30 days after a date established by the Commission by regulation and the Commission issues the license. **Sections 8 and 11** of this bill make conforming changes.



55 **Section 10** of this bill: (1) requires the Commission to adopt regulations to  
56 establish a procedure by which a customer who has been approved to purchase  
57 energy, capacity or ancillary services from a provider of new electric resources may  
58 apply to the Commission to return to purchasing bundled electric service from an  
59 electric utility; (2) authorizes the Commission to establish such terms and  
60 conditions on such a return as the Commission deems necessary and appropriate to  
61 protect the existing customers of the electric utility; and (3) authorizes the  
62 Commission to limit the number of times a customer is authorized to be approved  
63 to purchase energy, capacity or ancillary services from a provider of new electric  
64 resources.

65 **Section 12** of this bill provides that a nongovernmental commercial or  
66 industrial end-use customer that was not a customer of an electric utility at any time  
67 before the effective date of this bill is eligible to apply to the Commission for  
68 approval to purchase energy, capacity or ancillary services from a provider of new  
69 electric resources only if the average annual load of the customer will be 1  
70 megawatt or more and the customer is expected to commence purchasing energy,  
71 capacity or ancillary services from a provider of new electric resources within 2  
72 years after filing the application with the Commission. **Section 25** of this bill  
73 provides that this provision does not apply to a person who, before the effective  
74 date of this bill, was approved to purchase energy, capacity and ancillary services  
75 from a provider of new electric resources.

76 Under existing law, a provider of new electric resources is qualified to sell  
77 energy, capacity or ancillary services to an eligible customer if, among other  
78 criteria, the provider makes the energy, capacity or ancillary services available from  
79 certain generation assets. (NRS 704B.110, 704B.130) **Section 13** of this bill  
80 authorizes a provider of new electric resources to make energy, capacity and  
81 ancillary services available by market purchases made through the provider.

82 Existing law provides that the provisions of existing law governing the  
83 purchase of energy, capacity or ancillary services from a provider of new electric  
84 resources do not affect any rights or obligations arising under certain contracts  
85 which were in existence on July 17, 2001. (NRS 704B.170) **Section 14** of this bill  
86 removes the date from this provision and, thus, provides that the existing law  
87 governing the purchase of energy, capacity or ancillary services from a provider of  
88 new electric resources does not affect any contract.

89 Existing law requires the Public Utilities Commission of Nevada to submit to  
90 the Legislative Commission, not later than 2 business days after receiving a request  
91 from the Legislative Commission, a written report summarizing certain information  
92 related to transactions between providers of new electric resources and customers  
93 approved by the Commission to purchase energy, capacity or ancillary services  
94 from such providers. (NRS 704B.210) **Section 15** of this bill requires this report to  
95 include only the public information that the customer included in the application  
96 filed with the Commission rather than all information that the customer included in  
97 the application.

98 **Section 17** of this bill revises the procedure to apply for and obtain the  
99 approval of the Commission to purchase energy, capacity and ancillary services  
100 from a provider of new electric resources by: (1) authorizing an eligible customer to  
101 file an application with the Commission only between January 2 and February 1 of  
102 each calendar year; (2) requiring the application to be filed with the Commission  
103 not later than 280 days, rather than not later than 180 days, before the date on  
104 which the customer intends to begin purchasing energy, capacity or ancillary  
105 services from a provider of new electric resources; (3) requiring the information  
106 included with the application to be specific information about the customer, the  
107 proposed provider and the terms and conditions of the proposed transaction; (4)  
108 requiring the specific information included with the application to include  
109 information identifying transmission requirements and the extent to which



110 transmission import capacity is needed; (5) prohibiting the Commission from  
111 approving the application unless the Commission determines the application is in  
112 the public interest rather than requiring approval of the application unless the  
113 Commission finds the application contrary to the public interest; (6) revising the  
114 factors the Commission is required to consider in determining whether the proposed  
115 transaction is in the public interest; (7) revising the terms and conditions which the  
116 Commission is required to order if it approves the application; and (8) prohibiting  
117 the approval of an application if the approval of the application would cause the  
118 energy and capacity that eligible customers are authorized to purchase from  
119 providers of new electric resources to exceed the annual limit included in the  
120 resource plan of the electric utility that has been accepted by the Commission.

121 Existing law authorizes a customer that is purchasing energy, capacity or  
122 ancillary services from a provider of new electric resources to purchase energy,  
123 capacity or ancillary services from an alternative provider without obtaining the  
124 approval of the Commission if the terms and conditions of that transaction, other  
125 than the price of the energy, capacity or ancillary services, conform to the  
126 transaction originally approved by the Commission. (NRS 704B.325) **Section 18** of  
127 this bill prohibits the purchase of energy, capacity or ancillary services from an  
128 alternative provider unless the alternative provider is licensed as a provider of new  
129 electric resources by the Commission pursuant to **section 9**.

130 Existing law authorizes a customer that is purchasing energy, capacity or  
131 ancillary services from a provider of new electric resources to replace some or all  
132 of that energy, capacity or ancillary services with energy, capacity or ancillary  
133 services purchased from an electric utility pursuant to a tariff approved by the  
134 Commission. (NRS 704B.330) **Section 19** of this bill provides that if the customer  
135 receives such service from an electric utility for more than 30 days in a calendar  
136 year, the customer is no longer authorized to purchase energy, capacity or ancillary  
137 services from a provider of new electric resources and is required to reapply for  
138 authorization to purchase energy, capacity or ancillary services from such a  
139 provider if the customer wishes to make such purchases.

140 Existing law prohibits a provider of new electric resources from selling energy,  
141 capacity or ancillary services to a customer unless the customer has a time-of-use  
142 meter installed at the point of delivery of energy to the customer. Under existing  
143 law, an electric utility is required to install a time-of-use meter at each point of  
144 delivery of energy to the customer if the customer does not have a time-of-use  
145 meter at that point of delivery. (NRS 704B.340) **Section 20** of this bill requires the  
146 Commission to determine the date by which the electric utility is required to ensure  
147 that metering equipment is operational for each customer who has been approved  
148 by the Commission to purchase energy, capacity or ancillary services from a  
149 provider of new electric resources.

150 Existing law requires each utility to: (1) conduct a vulnerability assessment in  
151 accordance with the requirements of certain federal and regional agencies; (2)  
152 prepare and maintain an emergency response plan in accordance with the  
153 requirements of certain federal and regional agencies; and (3) at least once each  
154 year, review its vulnerability assessment and emergency response plan and submit  
155 to the Division of Emergency Management of the Department of Public Safety the  
156 results of that review and any additions or modifications to its emergency response  
157 plan. (NRS 239C.270) **Section 23** of this bill imposes these requirements on  
158 providers of new electric resources.

159 **Section 24** of this bill provides that any application to purchase energy,  
160 capacity or ancillary services from a provider of new electric resources that was  
161 submitted to the Commission before the passage and approval of this bill is deemed  
162 to be denied unless the Commission issues a final order approving the application  
163 before July 1, 2019.



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

1       **Section 1.** NRS 703.330 is hereby amended to read as follows:

2       703.330 1. A complete record must be kept of all hearings  
3 before the Commission. All testimony at such hearings must be  
4 taken down by the stenographer appointed by the Commission or,  
5 under the direction of any competent person appointed by the  
6 Commission, must be reported by sound recording equipment in  
7 the manner authorized for reporting testimony in district courts. The  
8 testimony reported by a stenographer must be transcribed, and the  
9 transcript filed with the record in the matter. The Commission may  
10 by regulation provide for the transcription or safekeeping of sound  
11 recordings. The costs of recording and transcribing testimony at any  
12 hearing, except those hearings ordered pursuant to NRS 703.310,  
13 must be paid by the applicant. If a complaint is made pursuant to  
14 NRS 703.310 by a customer or by a political subdivision of the  
15 State or municipal organization, the complainant is not liable for any  
16 costs. Otherwise, if there are several applicants or parties to any  
17 hearing, the Commission may apportion the costs among them in its  
18 discretion.

19       2. A copy of the proceedings and testimony must be furnished  
20 to any party, on payment of a reasonable amount to be fixed by the  
21 Commission, and the amount must be the same for all parties.

22       3. The provisions of this section do not prohibit the  
23 Commission from:

24       (a) Restricting access to the records and transcripts of a hearing  
25 pursuant to paragraph (a) of subsection 3 of NRS 703.196.

26       (b) Protecting the confidentiality of information pursuant to  
27 NRS 704B.310 ~~1, 704B.320~~ or 704B.325.

28       **Sec. 2.** NRS 704.021 is hereby amended to read as follows:

29       704.021 “Public utility” or “utility” does not include:

30       1. Persons engaged in the production and sale of natural gas,  
31 other than sales to the public, or engaged in the transmission of  
32 natural gas other than as a common carrier transmission or  
33 distribution line or system.

34       2. Persons engaged in the business of furnishing, for  
35 compensation, water or services for the disposal of sewage, or both,  
36 to persons within this State if:

37       (a) They serve 25 persons or less; and

38       (b) Their gross sales for water or services for the disposal of  
39 sewage, or both, amounted to \$25,000 or less during the  
40 immediately preceding 12 months.

41       3. Persons not otherwise engaged in the business of furnishing,  
42 producing or selling water or services for the disposal of sewage, or



1 both, but who sell or furnish water or services for the disposal of  
2 sewage, or both, as an accommodation in an area where water or  
3 services for the disposal of sewage, or both, are not available from a  
4 public utility, cooperative corporations and associations or political  
5 subdivisions engaged in the business of furnishing water or services  
6 for the disposal of sewage, or both, for compensation, to persons  
7 within the political subdivision.

8 4. Persons who are engaged in the production and sale of  
9 energy, including electricity, to public utilities, cities, counties or  
10 other entities which are reselling the energy to the public.

11 5. Persons who are subject to the provisions of NRS 590.465 to  
12 590.645, inclusive.

13 6. Persons who are engaged in the sale or use of special fuel as  
14 defined in NRS 366.060.

15 7. Persons who provide water from water storage, transmission  
16 and treatment facilities if those facilities are for the storage,  
17 transmission or treatment of water from mining operations.

18 8. Persons who are video service providers, as defined in NRS  
19 711.151, except for those operations of the video service provider  
20 which consist of providing a telecommunication service to the  
21 public, in which case the video service provider is a public utility  
22 only with regard to those operations of the video service provider  
23 which consist of providing a telecommunication service to the  
24 public.

25 9. Persons who own or operate a net metering system described  
26 in paragraph (c) of subsection 1 of NRS 704.771.

27 10. Persons who for compensation own or operate individual  
28 systems which use renewable energy to generate electricity and sell  
29 the electricity generated from those systems to not more than one  
30 customer of the public utility per individual system if each  
31 individual system is:

32 (a) Located on the premises of another person;

33 (b) Used to produce not more than 150 percent of that other  
34 person's requirements for electricity on an annual basis for the  
35 premises on which the individual system is located; and

36 (c) Not part of a larger system that aggregates electricity  
37 generated from renewable energy for resale or use on premises other  
38 than the premises on which the individual system is located.

39 ↪ As used in this subsection, "renewable energy" has the meaning  
40 ascribed to it in NRS 704.7811.

41 11. Persons who own, control, operate or manage a facility that  
42 supplies electricity only for use to charge electric vehicles.

43 *12. Any plant or equipment that is used by a data center to*  
44 *produce, deliver or furnish electricity at agreed-upon prices for or*  
45 *to persons on the premises of the data center for the sole purpose*



1 *of those persons storing, processing or distributing data, but only*  
2 *with regard to those operations which consist of providing electric*  
3 *service. As used in this subsection, “data center” has the meaning*  
4 *ascribed to it in NRS 360.754.*

5 **Sec. 3.** NRS 704.033 is hereby amended to read as follows:

6 704.033 1. Except as otherwise provided in subsection 6, the  
7 Commission shall levy and collect an annual assessment from all  
8 public utilities, *providers of new electric resources*, providers of  
9 discretionary natural gas service and alternative sellers subject to the  
10 jurisdiction of the Commission.

11 2. Except as otherwise provided in subsections 3 and 4, the  
12 annual assessment must be:

13 (a) For the use of the Commission, not more than 3.50 mills; and

14 (b) For the use of the Consumer’s Advocate, not more than 0.75  
15 mills,

16 ↪ on each dollar of gross operating revenue derived from the  
17 intrastate operations of such utilities, *providers of new electric*  
18 *resources*, providers of discretionary natural gas service and  
19 alternative sellers in the State of Nevada. The total annual  
20 assessment must be not more than 4.25 mills.

21 3. The levy for the use of the Consumer’s Advocate must not  
22 be assessed against railroads.

23 4. The minimum assessment in any 1 year must be \$100.

24 5. The gross operating revenue of the utilities must be  
25 determined for the preceding calendar year. In the case of:

26 (a) Telecommunication providers, except as provided in  
27 paragraph (c), the revenue shall be deemed to be all intrastate  
28 revenues.

29 (b) Railroads, the revenue shall be deemed to be the revenue  
30 received only from freight and passenger intrastate movements.

31 (c) All public utilities, *providers of new electric resources*,  
32 providers of discretionary natural gas service and alternative sellers,  
33 the revenue does not include the proceeds of any commodity, energy  
34 or service furnished to another public utility, *provider of new*  
35 *electric resources*, provider of discretionary natural gas service or  
36 alternative seller for resale.

37 6. Providers of commercial mobile radio service are not subject  
38 to the annual assessment and, in lieu thereof, shall pay to the  
39 Commission an annual licensing fee of \$200.

40 **7. “Provider of new electric resources” has the meaning**  
41 **ascribed to it in NRS 704B.130.**

42 **Sec. 4.** NRS 704.035 is hereby amended to read as follows:

43 704.035 1. On or before June 15 of each year, the  
44 Commission shall mail revenue report forms to all public utilities,  
45 *providers of new electric resources*, providers of discretionary




1 natural gas service and alternative sellers under its jurisdiction, to  
2 the address of those utilities, *providers of new electric resources*,  
3 providers of discretionary natural gas service and alternative sellers  
4 on file with the Commission. The revenue report form serves as  
5 notice of the Commission's intent to assess such entities, but failure  
6 to notify any such entity does not invalidate the assessment with  
7 respect thereto.

8 2. Each public utility, *provider of new electric resources*,  
9 provider of discretionary natural gas service and alternative seller  
10 subject to the provisions of NRS 704.033 shall complete the revenue  
11 report referred to in subsection 1, compute the assessment and return  
12 the completed revenue report to the Commission accompanied by  
13 payment of the assessment and any fee due, pursuant to the  
14 provisions of subsection 5.

15 3. The assessment is due on July 1 of each year, but may, at the  
16 option of the public utility, *provider of new electric resources*,  
17 provider of discretionary natural gas service and alternative seller,  
18 be paid quarterly on July 1, October 1, January 1 and April 1.

19 4. The assessment computed by the public utility, *provider of*  
20 *new electric resources*, provider of discretionary natural gas service  
21 or alternative seller is subject to review and audit by the  
22 Commission, and the amount of the assessment may be adjusted by  
23 the Commission as a result of the audit and review.

24 5. Any public utility, *provider of new electric resources*,  
25 provider of discretionary natural gas service or alternative seller  
26 failing to pay the assessment provided for in NRS 704.033 on or  
27 before August 1, or if paying quarterly, on or before August 1,  
28 October 1, January 1 or April 1, shall pay, in addition to such  
29 assessment, a fee of 1 percent of the total unpaid balance for each  
30 month or portion thereof that the assessment is delinquent, or \$10,  
31 whichever is greater, but no fee may exceed \$1,000 for each  
32 delinquent payment.

33 6. When a public utility, *provider of new electric resources*,  
34 provider of discretionary natural gas service or alternative seller  
35 sells, transfers or conveys substantially all of its assets or, if  
36 applicable, its certificate of public convenience and necessity  *or*  
37 *license*, the Commission shall determine, levy and collect the  
38 accrued assessment for the current year not later than 30 days after  
39 the sale, transfer or conveyance, unless the transferee has assumed  
40 liability for the assessment. For purposes of this subsection, the  
41 jurisdiction of the Commission over the selling, transferring or  
42 conveying public utility, *provider of new electric resources*,  
43 provider of discretionary natural gas service or alternative seller  
44 continues until it has paid the assessment.





1 7. The Commission may bring an appropriate action in its own  
2 name for the collection of any assessment and fee which is not paid  
3 as provided in this section.

4 8. The Commission shall, upon collection, transfer to the  
5 Account for the Consumer's Advocate that portion of the  
6 assessments collected which belongs to the Consumer's Advocate.

7 **9. "Provider of new electric resources" has the meaning**  
8 **ascribed to it in NRS 704B.130.**

9 **Sec. 5.** NRS 704.741 is hereby amended to read as follows:

10 704.741 1. A utility which supplies electricity in this State  
11 shall, on or before June 1 of every third year, in the manner  
12 specified by the Commission, submit a plan to increase its supply of  
13 electricity or decrease the demands made on its system by its  
14 customers to the Commission. Two or more utilities that are  
15 affiliated through common ownership and that have an  
16 interconnected system for the transmission of electricity shall  
17 submit a joint plan.

18 2. The Commission shall, by regulation:

19 (a) Prescribe the contents of such a plan, including, but not  
20 limited to, the methods or formulas which are used by the utility or  
21 utilities to:

22 (1) Forecast the future demands ~~it~~, **except that a forecast of**  
23 **the future demands of the utility or utilities must not include the**  
24 **amount of energy and capacity proposed pursuant to subsection 6**  
25 **as annual limits on the total amount of energy and capacity that**  
26 **eligible customers may purchase from providers of new electric**  
27 **resources through transactions approved by the Commission**  
28 **pursuant to NRS 704B.310; and**

29 (2) Determine the best combination of sources of supply to  
30 meet the demands or the best method to reduce them; and

31 (b) Designate renewable energy zones and revise the designated  
32 renewable energy zones as the Commission deems necessary.

33 3. The Commission shall require the utility or utilities to  
34 include in the plan:

35 (a) An energy efficiency program for residential customers  
36 which reduces the consumption of electricity or any fossil fuel and  
37 which includes, without limitation, the use of new solar thermal  
38 energy sources.

39 (b) A proposal for the expenditure of not less than 5 percent of  
40 the total expenditures related to energy efficiency and conservation  
41 programs on energy efficiency and conservation programs directed  
42 to low-income customers of the electric utility.

43 (c) A comparison of a diverse set of scenarios of the best  
44 combination of sources of supply to meet the demands or the best  
45 methods to reduce the demands, which must include at least one



1 scenario of low carbon intensity that includes the deployment of  
2 distributed generation.

3 (d) An analysis of the effects of the requirements of NRS  
4 704.766 to 704.777, inclusive, on the reliability of the distribution  
5 system of the utility or utilities and the costs to the utility or utilities  
6 to provide electric service to all customers. The analysis must  
7 include an evaluation of the costs and benefits of addressing issues  
8 of reliability through investment in the distribution system.

9 (e) A list of the utility's or utilities' assets described in  
10 NRS 704.7338.

11 (f) A surplus asset retirement plan as required by NRS 704.734.

12 4. The Commission shall require the utility or utilities to  
13 include in the plan a plan for construction or expansion of  
14 transmission facilities to serve renewable energy zones and to  
15 facilitate the utility or utilities in meeting the portfolio standard  
16 established by NRS 704.7821.

17 5. The Commission shall require the utility or utilities to  
18 include in the plan a distributed resources plan. The distributed  
19 resources plan must:

20 (a) Evaluate the locational benefits and costs of distributed  
21 resources. This evaluation must be based on reductions or increases  
22 in local generation capacity needs, avoided or increased investments  
23 in distribution infrastructure, safety benefits, reliability benefits and  
24 any other savings the distributed resources provide to the electricity  
25 grid for this State or costs to customers of the electric utility or  
26 utilities.

27 (b) Propose or identify standard tariffs, contracts or other  
28 mechanisms for the deployment of cost-effective distributed  
29 resources that satisfy the objectives for distribution planning.

30 (c) Propose cost-effective methods of effectively coordinating  
31 existing programs approved by the Commission, incentives and  
32 tariffs to maximize the locational benefits and minimize the  
33 incremental costs of distributed resources.

34 (d) Identify any additional spending necessary to integrate cost-  
35 effective distributed resources into distribution planning consistent  
36 with the goal of yielding a net benefit to the customers of the  
37 electric utility or utilities.

38 (e) Identify barriers to the deployment of distributed resources,  
39 including, without limitation, safety standards related to technology  
40 or operation of the distribution system in a manner that ensures  
41 reliable service.

42 6. *The Commission shall require the utility or utilities to*  
43 *include in the plan a proposal for annual limits on the total*  
44 *amount of energy and capacity that eligible customers may*  
45 *purchase from providers of new electric resources through*



1 *transactions approved by the Commission pursuant to NRS*  
2 *704B.310. In developing the proposal and the forecasts in the*  
3 *plan, the utility or utilities must use a sensitivity analysis that, at a*  
4 *minimum, addresses load growth, import capacity, system*  
5 *constraints and the effect of eligible customers purchasing less*  
6 *energy and capacity than authorized by the proposed annual limit.*  
7 *The proposal in the plan must include, without limitation:*

8 (a) *A forecast of the load growth of the utility or utilities;*

9 (b) *The number of eligible customers that are currently being*  
10 *served by or anticipated to be served by the utility or utilities;*

11 (c) *Information concerning the infrastructure of the utility or*  
12 *utilities that is available to accommodate market-based new*  
13 *electric resources;*

14 (d) *Proposals to ensure the stability of rates and the*  
15 *availability and reliability of electric service; and*

16 (e) *For each year of the plan, impact fees applicable to each*  
17 *megawatt or each megawatt hour to account for costs reflected in*  
18 *the base tariff general rate and base tariff energy rate paid by end-*  
19 *use customers of the electric utility.*

20 7. As used in this section:

21 (a) "Carbon intensity" means the amount of carbon by weight  
22 emitted per unit of energy consumed.

23 (b) "Distributed generation system" has the meaning ascribed to  
24 it in NRS 701.380.

25 (c) "Distributed resources" means distributed generation  
26 systems, energy efficiency, energy storage, electric vehicles and  
27 demand-response technologies.

28 (d) "*Eligible customer*" has the meaning ascribed to it in  
29 *NRS 704B.080.*

30 (e) "*Energy*" has the meaning ascribed to it in *NRS 704B.090.*

31 (f) "*Generation asset*" has the meaning ascribed to it in  
32 *NRS 704B.100.*

33 (g) "*New electric resource*" has the meaning ascribed to it in  
34 *NRS 704B.110.*

35 (h) "*Provider of new electric resources*" has the meaning  
36 *ascribed to it in NRS 704B.130.*

37 (i) "Renewable energy zones" means specific geographic zones  
38 where renewable energy resources are sufficient to develop  
39 generation capacity and where transmission constrains the delivery  
40 of electricity from those resources to customers.

41 (j) "*Sensitivity analysis*" means a set of methods or procedures  
42 *which results in a determination or estimation of the sensitivity of*  
43 *a result to a change in given data or a given assumption.*



1       **Sec. 6.** NRS 704.746 is hereby amended to read as follows:

2       704.746 1. After a utility has filed its plan pursuant to NRS  
3 704.741, the Commission shall convene a public hearing on the  
4 adequacy of the plan.

5       2. The Commission shall determine the parties to the public  
6 hearing on the adequacy of the plan. A person or governmental  
7 entity may petition the Commission for leave to intervene as a party.  
8 The Commission must grant a petition to intervene as a party in the  
9 hearing if the person or entity has relevant material evidence to  
10 provide concerning the adequacy of the plan. The Commission may  
11 limit participation of an intervener in the hearing to avoid  
12 duplication and may prohibit continued participation in the hearing  
13 by an intervener if the Commission determines that continued  
14 participation will unduly broaden the issues, will not provide  
15 additional relevant material evidence or is not necessary to further  
16 the public interest.

17       3. In addition to any party to the hearing, any interested person  
18 may make comments to the Commission regarding the contents and  
19 adequacy of the plan.

20       4. After the hearing, the Commission shall determine whether:

21       (a) The forecast requirements of the utility or utilities are based  
22 on substantially accurate data and an adequate method of  
23 forecasting.

24       (b) The plan identifies and takes into account any present and  
25 projected reductions in the demand for energy that may result from  
26 measures to improve energy efficiency in the industrial,  
27 commercial, residential and energy producing sectors of the area  
28 being served.

29       (c) The plan adequately demonstrates the economic,  
30 environmental and other benefits to this State and to the customers  
31 of the utility or utilities associated with the following possible  
32 measures and sources of supply:

33           (1) Improvements in energy efficiency;

34           (2) Pooling of power;

35           (3) Purchases of power from neighboring states or countries;

36           (4) Facilities that operate on solar or geothermal energy or  
37 wind;

38           (5) Facilities that operate on the principle of cogeneration or  
39 hydrogeneration;

40           (6) Other generation facilities; and

41           (7) Other transmission facilities.

42       5. The Commission shall give preference to the measures and  
43 sources of supply set forth in paragraph (c) of subsection 4 that:

44       (a) Provide the greatest economic and environmental benefits to  
45 the State;



1 (b) Are consistent with the provisions of this section;  
2 (c) Provide levels of service that are adequate and reliable;  
3 (d) Provide the greatest opportunity for the creation of new jobs  
4 in this State; and

5 (e) Provide for diverse electricity supply portfolios and which  
6 reduce customer exposure to the price volatility of fossil fuels and  
7 the potential costs of carbon.

8 ↪ In considering the measures and sources of supply set forth in  
9 paragraph (c) of subsection 4 and determining the preference given  
10 to such measures and sources of supply, the Commission shall  
11 consider the cost of those measures and sources of supply to the  
12 customers of the electric utility or utilities.

13 6. The Commission shall:

14 (a) Adopt regulations which determine the level of preference to  
15 be given to those measures and sources of supply; and

16 (b) Consider the value to the public of using water efficiently  
17 when it is determining those preferences.

18 7. The Commission shall:

19 (a) Consider the level of financial commitment from developers  
20 of renewable energy projects in each renewable energy zone, as  
21 designated pursuant to subsection 2 of NRS 704.741; and

22 (b) Adopt regulations establishing a process for considering  
23 such commitments including, without limitation, contracts for the  
24 sale of energy, leases of land and mineral rights, cash deposits and  
25 letters of credit.

26 8. The Commission shall, after a hearing, review and accept or  
27 modify an emissions reduction and capacity replacement plan which  
28 includes each element required by NRS 704.7316. In considering  
29 whether to accept or modify an emissions reduction and capacity  
30 replacement plan, the Commission shall consider:

31 (a) The cost to the customers of the electric utility or utilities to  
32 implement the plan;

33 (b) Whether the plan provides the greatest economic benefit to  
34 this State;

35 (c) Whether the plan provides the greatest opportunities for the  
36 creation of new jobs in this State; and

37 (d) Whether the plan represents the best value to the customers  
38 of the electric utility or utilities.

39 ***9. In considering whether to accept or modify a proposal for***  
40 ***annual limits on the total amount of energy and capacity that***  
41 ***eligible customers may purchase from providers of new electric***  
42 ***resources through transactions approved by the Commission***  
43 ***pursuant to NRS 704B.310, which is included in the plan pursuant***  
44 ***to subsection 6 of NRS 704.741, the Commission shall consider***  
45 ***whether the proposed annual limits:***



1       (a) *Further the public interest, including, without limitation,*  
2 *whether the proposed annual limits promote safe, economic,*  
3 *efficient and reliable electric service to all customers of electric*  
4 *service in this State; and*

5       (b) *Encourage the development and use of renewable energy*  
6 *resources.*

7       **Sec. 7.** Chapter 704B of NRS is hereby amended by adding  
8 thereto the provisions set forth as sections 8, 9 and 10 of this act.

9       **Sec. 8.** *“License” means a license to sell energy, capacity*  
10 *and ancillary services to an eligible customer issued by the*  
11 *Commission pursuant to section 9 of this act.*

12       **Sec. 9. 1.** *To qualify for a license, a provider of new electric*  
13 *resources must do all of the following:*

14       (a) *Submit an application for the license to the Commission*  
15 *that includes all information deemed necessary by the Commission*  
16 *to determine whether the provider of new electric resources is*  
17 *qualified to obtain a license pursuant to this section.*

18       (b) *Demonstrate to the satisfaction of the Commission that the*  
19 *provider of new electric resources is authorized to conduct*  
20 *business pursuant to the laws of this State and the ordinances of*  
21 *the county, city or town in which the provider sells or will sell to*  
22 *sell energy, capacity and ancillary services to eligible customers.*

23       (c) *Demonstrate to the satisfaction of the Commission that the*  
24 *provider of new electric resources has the technical competence*  
25 *necessary to sell energy, capacity and ancillary services to eligible*  
26 *customers.*

27       (d) *Demonstrate to the satisfaction of the Commission that the*  
28 *provider of new electric resources has the managerial competence*  
29 *necessary to sell energy, capacity and ancillary services to eligible*  
30 *customers.*

31       (e) *Demonstrate to the satisfaction of the Commission that the*  
32 *provider of new electric resources has the financial capability to*  
33 *sell energy, capacity and ancillary services to eligible customers.*

34       (f) *Demonstrate to the satisfaction of the Commission*  
35 *financial responsibility.*

36       (g) *Demonstrate to the satisfaction of the Commission fitness*  
37 *to sell energy, capacity and ancillary services to eligible customers.*  
38 *In determining whether a provider of new electric resources is fit*  
39 *to sell energy, capacity and ancillary services to eligible customers,*  
40 *the Commission may consider:*

41       (1) *Whether legal action has been taken against the*  
42 *provider or any of its affiliates in another jurisdiction;*

43       (2) *Whether customer complaints have been made*  
44 *concerning the provider or any of its affiliates in another*  
45 *jurisdiction; and*



1           (3) *The nature of any legal action or customer complaint*  
2 *against the provider or any of its affiliates in another jurisdiction.*

3           (h) *Demonstrate to the satisfaction of the Commission that the*  
4 *provider of new electric resources is in compliance with or will*  
5 *comply with NRS 704.78213.*

6           2. *The Commission may issue a license to a provider of new*  
7 *electric resources that is qualified for a license pursuant to*  
8 *subsection 1. The Commission, after notice and a hearing in the*  
9 *manner set forth in chapter 703 of NRS, may deny the application*  
10 *of a provider of new electric resources for a license or limit,*  
11 *suspend or revoke a license issued to a provider of new electric*  
12 *resources if such action is necessary to protect the public interest*  
13 *or to enforce a provision of the laws of this State or a regulation*  
14 *adopted by the Commission that is applicable to the provider of*  
15 *new electric resources.*

16           3. *The Commission may adopt regulations requiring each*  
17 *provider of new electric resources to submit to the Commission*  
18 *such information as the Commission determines is necessary to*  
19 *ensure that:*

20           (a) *Each provider of new electric resources has sufficient*  
21 *energy, capacity and ancillary services, or the ability to obtain*  
22 *energy, capacity and ancillary services, to satisfy the demand of*  
23 *each eligible customer purchasing energy, capacity or ancillary*  
24 *services from the provider;*

25           (b) *Eligible customers served by a provider of new electric*  
26 *resources will receive safe and reliable service from the provider;*  
27 *and*

28           (c) *Each provider of new electric resources complies with this*  
29 *chapter and any other laws of this State applicable to each*  
30 *provider.*

31           **Sec. 10. 1.** *The Commission shall by regulation establish a*  
32 *procedure for an eligible customer who is purchasing energy,*  
33 *capacity or ancillary services from a provider of new electric*  
34 *resources to apply to the Commission to purchase bundled electric*  
35 *service from an electric utility. The Commission may establish a*  
36 *limit on the number of times an eligible customer may be approved*  
37 *to purchase energy, capacity or ancillary services from a provider*  
38 *of new electric resources as the Commission deems necessary and*  
39 *appropriate to prevent harm to the customers of an electric utility.*

40           2. *If the Commission approves an application submitted*  
41 *pursuant to the regulations required to be adopted by subsection 1,*  
42 *the Commission shall order such terms and conditions as the*  
43 *Commission deems necessary and appropriate to ensure that the*  
44 *purchase of bundled electric service from an electric utility does*  
45 *not harm the existing customers of the electric utility.*



1       **Sec. 11.** NRS 704B.010 is hereby amended to read as follows:  
2       704B.010 As used in this chapter, unless the context otherwise  
3 requires, the words and terms defined in NRS 704B.020 to  
4 704B.140, inclusive, *and section 8 of this act* have the meanings  
5 ascribed to them in those sections.

6       **Sec. 12.** NRS 704B.080 is hereby amended to read as follows:  
7       704B.080 “Eligible customer” means an end-use customer  
8 which is:

9       1. A nongovernmental commercial or industrial end-use  
10 customer that ~~Has~~:

11       (a) *Was an end-use customer of an electric utility at any time*  
12 *before the effective date of this act; and*

13       (b) *Has* an average annual load of 1 megawatt or more in the  
14 service territory of an electric utility.

15       2. A governmental entity, including, without limitation, a  
16 governmental entity providing educational or health care services,  
17 that:

18       (a) *Was an end-use customer of an electric utility at any time*  
19 *before the effective date of this act;*

20       (b) Performs its functions using one or more facilities which are  
21 operated under a common budget and common control; and

22       ~~[(b)]~~ (c) Has an average annual load of 1 megawatt or more in  
23 the service territory of an electric utility.

24       3. *A nongovernmental commercial or industrial end-use*  
25 *customer that:*

26       (a) *Was not an end-use customer of an electric utility at any*  
27 *time before the effective date of this act; and*

28       (b) *Would have an average annual load of 1 megawatt or more*  
29 *in the service territory of an electric utility.*

30       **Sec. 13.** NRS 704B.110 is hereby amended to read as follows:  
31       704B.110 “New electric resource” means ~~[-~~

32 ~~—1. The] the~~ energy, capacity or ancillary services and any  
33 increased or additional energy, capacity or ancillary services which  
34 are ~~[-] able to be delivered to an eligible customer and are made~~  
35 ~~available:~~

36       ~~[(a) Made available from a]~~

37       1. *From an identifiable* generation asset that is not owned by  
38 an electric utility or is not subject to contractual commitments to an  
39 electric utility that make the energy, capacity or ancillary services  
40 from the generation asset unavailable for purchase by an eligible  
41 customer; ~~and~~

42 ~~—(b) Able to be delivered to an eligible customer.] or~~

43       2. ~~[-Any increased energy, capacity or ancillary services made~~  
44 ~~available from a generation asset pursuant to an agreement~~





1 ~~described in NRS 704B.260.]~~ *By way of market purchases through*  
2 *a provider of new electric resources.*

3 **Sec. 14.** NRS 704B.170 is hereby amended to read as follows:

4 704B.170 1. The provisions of this chapter do not alter,  
5 diminish or otherwise affect any rights or obligations arising under  
6 any contract which requires an electric utility to purchase energy,  
7 capacity or ancillary services from another party . ~~[and which exists~~  
8 ~~on July 17, 2001.]~~

9 2. Each electric utility or its assignee shall comply with the  
10 terms of any contract which requires the electric utility or its  
11 assignee to purchase energy, capacity or ancillary services from  
12 another party . ~~[and which exists on July 17, 2001.]~~

13 **Sec. 15.** NRS 704B.210 is hereby amended to read as follows:

14 704B.210 The Commission shall, not later than 2 business days  
15 after receiving a request in writing from the Legislative  
16 Commission, submit to the Legislative Commission a written report  
17 which summarizes for the period requested by the Legislative  
18 Commission:

19 1. Each application which was filed with the Commission  
20 pursuant to the provisions of this chapter and which requested  
21 approval of a proposed transaction between an eligible customer and  
22 a provider of new electric resources;

23 2. The *public* information that the eligible customer included  
24 with the application;

25 3. The findings of the Commission concerning the effect of the  
26 proposed transaction on the public interest; and

27 4. Whether the Commission approved the application and, if  
28 so, the effective date of the proposed transaction, the terms and  
29 conditions of the proposed transaction, and the terms, conditions and  
30 payments ordered by the Commission.

31 **Sec. 16.** NRS 704B.300 is hereby amended to read as follows:

32 704B.300 1. Except as otherwise provided in this section, a  
33 provider of new electric resources may sell energy, capacity or  
34 ancillary services to one or more eligible customers if ~~[ ]~~ *the*  
35 *provider holds a valid license and:*

36 (a) The eligible customers have been approved to purchase  
37 energy, capacity and ancillary services from the provider pursuant to  
38 the provisions of NRS 704B.310 ; ~~[and 704B.320;]~~ or

39 (b) The transaction complies with the provisions of  
40 NRS 704B.325.

41 2. A provider of new electric resources shall not sell energy,  
42 capacity or ancillary services to an eligible customer if the  
43 transaction violates the provisions of this chapter.



1 3. A provider of new electric resources that sells energy,  
2 capacity or ancillary services to an eligible customer pursuant to the  
3 provisions of this chapter:

4 (a) Does not become and shall not be deemed to be a public  
5 utility solely because of that transaction; and

6 (b) ~~Does not become and shall not be deemed to be~~ *Becomes*  
7 subject to the jurisdiction of the Commission ~~[except as otherwise~~  
8 ~~provided in this chapter or by specific statute.]~~ *only for the*  
9 *purposes of this chapter and NRS 703.033, 703.035 and 704.7801*  
10 *to 704.7828, inclusive.*

11 4. If a provider of new electric resources is not a public utility  
12 in this state and is not otherwise authorized by the provisions of a  
13 specific statute to sell energy, capacity or ancillary services at retail  
14 in this state, the provider shall not sell energy, capacity or ancillary  
15 services at retail in this state to a person or entity that is not an  
16 eligible customer.

17 **Sec. 17.** NRS 704B.310 is hereby amended to read as follows:

18 704B.310 1. An eligible customer that is purchasing bundled  
19 electric service for all or any part of its load from an electric utility  
20 shall not purchase energy, capacity or ancillary services from a  
21 provider of new electric resources unless:

22 (a) The eligible customer files an application with the  
23 Commission *between January 2 and February 1 of any year and*  
24 not later than ~~[180]~~ *280* days before the date on which the eligible  
25 customer intends to begin purchasing energy, capacity or ancillary  
26 services from the provider ; ~~[-except that the Commission may~~  
27 ~~allow the eligible customer to file the application within any shorter~~  
28 ~~period that the Commission deems appropriate; and]~~

29 (b) The Commission approves the application by a written order  
30 issued in accordance with the provisions of this section ~~[and NRS~~  
31 ~~704B.320.]~~ ; *and*

32 (c) *The provider holds a valid license.*

33 2. Except as otherwise provided in subsection 3, each  
34 application filed pursuant to this section must include:

35 (a) ~~[Information]~~ *Specific information* demonstrating that the  
36 person filing the application is an eligible customer;

37 (b) Information demonstrating that the proposed provider will  
38 provide energy, capacity or ancillary services from a new electric  
39 resource;

40 (c) ~~[Information]~~ *Specific information* concerning the terms and  
41 conditions of the proposed transaction that is necessary for the  
42 Commission to evaluate the impact of the proposed transaction on  
43 customers and the public interest, including, without limitation,  
44 information concerning the duration of the proposed transaction ,  
45 *the point of receipt of the energy, capacity or ancillary services* and



1 the amount of energy, capacity or ancillary services to be purchased  
2 from the provider; ~~and~~

3 (d) *Specific information identifying transmission requirements*  
4 *associated with the proposed transaction and the extent to which*  
5 *the proposed transaction requires transmission import capacity;*  
6 *and*

7 (e) Any other information required pursuant to the regulations  
8 adopted by the Commission.

9 3. ~~Except as otherwise provided in NRS 704B.320, the~~ *The*  
10 Commission shall not require the eligible customer or provider to  
11 disclose:

12 (a) The price that is being paid by the eligible customer to  
13 purchase energy, capacity or ancillary services from the provider; or

14 (b) Any other terms or conditions of the proposed transaction  
15 that the Commission determines are commercially sensitive.

16 4. The Commission shall provide public notice of the  
17 application of the eligible customer and an opportunity for a hearing  
18 on the application in a manner that is consistent with the provisions  
19 of NRS 703.320 and the regulations adopted by the Commission.

20 5. The Commission shall *not* approve the application of the  
21 eligible customer unless the Commission finds that the proposed  
22 transaction:

23 (a) Will be ~~contrary to~~ *in* the public interest; ~~or~~  
24 ~~—(b) Does not comply with the provisions of NRS 704B.320, if~~  
25 ~~those provisions apply to the proposed transaction.] and~~

26 (b) *Will not cause the total amount of energy and capacity that*  
27 *eligible customers purchase from providers of new electric*  
28 *resources through transactions approved by the Commission*  
29 *pursuant to this section to exceed an annual limit set forth in a*  
30 *plan filed with the Commission pursuant to NRS 704.741 and*  
31 *accepted by the Commission pursuant to NRS 704.751.*

32 6. In determining whether the proposed transaction will be  
33 ~~contrary to~~ *in* the public interest, the Commission shall consider,  
34 without limitation:

35 (a) Whether the electric utility that has been providing electric  
36 service to the eligible customer will ~~be burdened by~~ *experience*  
37 *increased costs as a result of the proposed transaction* ~~or whether~~ ;

38 (b) *Whether* any remaining customer of the electric utility will  
39 pay increased costs for electric service *or forgo the benefit of a*  
40 *reduction of costs for electric service* as a result of the proposed  
41 transaction; *and*

42 ~~(b)~~ (c) Whether the proposed transaction will impair system  
43 reliability or the ability of the electric utility to provide electric  
44 service to its remaining customers . ~~;~~ *and*



1 ~~—(c) Whether the proposed transaction will add energy, capacity~~  
2 ~~or ancillary services to the supply in this State.]~~

3 7. If the Commission approves the application of the eligible  
4 customer:

5 (a) The eligible customer shall not begin purchasing energy,  
6 capacity or ancillary services from the provider pursuant to the  
7 proposed transaction sooner than ~~[180]~~ 280 days after the date on  
8 which the application was filed, unless the Commission allows the  
9 eligible customer to begin purchasing energy, capacity or ancillary  
10 services from the provider at an earlier date; and

11 (b) The Commission shall order such terms, conditions and  
12 payments as the Commission deems necessary and appropriate to  
13 ensure that the proposed transaction will ~~[not]~~ be ~~[contrary to]~~ *in*  
14 the public interest. Such terms, conditions and payments:

15 (1) Must be fair and nondiscriminatory as between the  
16 eligible customer and the remaining customers of the electric utility  
17 ~~[; and]~~, *except that the terms, conditions and payments must*  
18 *assign all identifiable but unquantifiable risk to the eligible*  
19 *customer;*

20 (2) Must include, without limitation:

21 (I) Payment by the eligible customer to the electric utility  
22 of the eligible customer's load-share portion of any unrecovered  
23 balance in the deferred accounts of the electric utility; and

24 (II) Payment by the eligible customer of the annual  
25 assessment and any other tax, fee or assessment required by  
26 NRS 704B.360 ~~[;]~~;

27 (3) *Must establish payments calculated in a manner that*  
28 *provides the eligible customer with only its load-ratio share of the*  
29 *benefits associated with forecasted load growth if load growth is*  
30 *utilized to mitigate the impact of the eligible customer's proposed*  
31 *transaction; and*

32 (4) *Must ensure that the eligible customer pays its load-*  
33 *ratio share of the costs associated with the electric utility's*  
34 *obligations that were incurred as deviations from least-cost*  
35 *resource planning pursuant to the laws of this State.*

36 8. If the Commission does not enter a final order on the  
37 application of the eligible customer within ~~[150]~~ 210 days after the  
38 date on which the application was filed with the Commission ~~[;~~

39 ~~—(a) The]~~, *the* application shall be deemed to be ~~[approved]~~  
40 *denied* by the Commission. ~~[; and]~~

41 ~~—(b) The eligible customer may begin purchasing energy,~~  
42 ~~capacity or ancillary services from the provider pursuant to the~~  
43 ~~proposed transaction.]~~



1       **Sec. 18.** NRS 704B.325 is hereby amended to read as follows:  
2       704B.325 1. An eligible customer that is purchasing energy,  
3 capacity or ancillary services from a provider of new electric  
4 resources may purchase energy, capacity or ancillary services from  
5 an alternative provider without obtaining the approval of the  
6 Commission if ~~the~~ :

7       (a) *The terms and conditions of the transaction with the*  
8 *alternative provider, other than the price of the energy, capacity or*  
9 *ancillary services, conform to the terms and conditions of the*  
10 *transaction that was originally approved by the Commission with*  
11 *respect to the eligible customer ~~it~~, including, without limitation,*  
12 *any terms and conditions, other than the price of the energy,*  
13 *capacity or ancillary services, that were approved by the*  
14 *Commission to address the factors considered by the Commission*  
15 *pursuant to subsection 6 of NRS 704B.310; and*

16       (b) *The alternative provider holds a license.*

17       2. If any terms and conditions of the transaction with the  
18 alternative provider, other than the price of the energy, capacity or  
19 ancillary services, do not conform to the terms and conditions of the  
20 transaction that was originally approved by the Commission with  
21 respect to the eligible customer, the eligible customer must obtain  
22 approval from the Commission before those nonconforming terms  
23 and conditions are enforceable.

24       3. If the eligible customer files a request with the Commission  
25 for approval of any nonconforming terms and conditions, the  
26 Commission shall review and make a determination concerning the  
27 request on an expedited basis.

28       4. Notwithstanding any specific statute to the contrary,  
29 information concerning any terms and conditions of the transaction  
30 with the alternative provider that the Commission determines are  
31 commercially sensitive:

32       (a) Must not be disclosed by the Commission except to the  
33 Regulatory Operations Staff of the Commission, the Consumer's  
34 Advocate, the staff of the Consumer's Advocate and the affected  
35 electric utility for the purposes of carrying out the provisions of this  
36 section; and

37       (b) Except as otherwise provided in NRS 239.0115, shall be  
38 deemed to be confidential for all other purposes, and the  
39 Commission shall take such actions as are necessary to protect the  
40 confidentiality of such information.

41       **Sec. 19.** NRS 704B.330 is hereby amended to read as follows:  
42       704B.330 1. If an eligible customer is purchasing energy,  
43 capacity or ancillary services from a provider of new electric  
44 resources, the eligible customer may, pursuant to tariffs approved by  
45 the Commission, replace some or all, but not less than all at a single



1 time-of-use meter, of the energy, capacity or ancillary services  
2 purchased from the provider of new electric resources with energy,  
3 capacity or ancillary services purchased from an electric utility.

4 2. The tariffs approved by the Commission pursuant to this  
5 section must include, without limitation:

6 (a) Provisions requiring the eligible customer to pay any  
7 incremental costs that are incurred by the electric utility to provide  
8 energy to the eligible customer;

9 (b) Provisions requiring the eligible customer to provide  
10 reasonable and adequate notice to the electric utility;

11 (c) Provisions establishing minimum terms during which the  
12 eligible customer must continue to purchase energy from the electric  
13 utility; and

14 (d) Any other provisions that the Commission determines are  
15 necessary and reasonable to carry out and enforce the provisions of  
16 this section.

17 ***3. If, pursuant to the tariffs approved by the Commission***  
18 ***pursuant to this section, an eligible customer purchases energy,***  
19 ***capacity or ancillary services from an electric utility for more than***  
20 ***30 calendar days:***

21 (a) ***The authority of the eligible customer to purchase energy,***  
22 ***capacity and ancillary services from a provider of new electric***  
23 ***resources is void; and***

24 (b) ***The eligible customer may not purchase energy, capacity or***  
25 ***ancillary services from a provider of new electric resources unless***  
26 ***the eligible customer obtains another approval to purchase energy,***  
27 ***capacity and ancillary services from the provider pursuant to the***  
28 ***provisions of NRS 704B.310.***

29 **Sec. 20.** NRS 704B.340 is hereby amended to read as follows:

30 704B.340 1. A provider of new electric resources shall not  
31 sell energy, capacity or ancillary services to an eligible customer  
32 unless the customer has a time-of-use meter installed at the point of  
33 delivery of energy to the eligible customer.

34 2. ***The Commission shall establish the date by which an***  
35 ***electric utility must ensure that metering equipment is installed***  
36 ***and operational at the point of delivery of energy to the eligible***  
37 ***customer.***

38 3. An electric utility shall install a time-of-use meter at each  
39 point of delivery of energy to the eligible customer if the eligible  
40 customer does not have a time-of-use meter at that point of delivery.  
41 If the eligible customer is:

42 (a) A nongovernmental commercial or industrial end-use  
43 customer, the eligible customer or the provider shall pay all costs for  
44 the time-of-use meter and for installation of the time-of-use meter  
45 by the electric utility.



1 (b) A governmental entity, the provider shall pay all costs for  
2 the time-of-use meter and for installation of the time-of-use meter  
3 by the electric utility.

4 ~~{3.}~~ 4. Not more than one person or entity may sell the energy  
5 that is delivered to an eligible customer through any one time-of-use  
6 meter.

7 ~~{4.}~~ 5. The provisions of this section do not prohibit:

8 (a) An eligible customer from having more than one time-of-use  
9 meter installed for the same service location; or

10 (b) An eligible customer from installing any other meter or  
11 equipment that is necessary or appropriate to the transaction with  
12 the provider, if such a meter or equipment is otherwise consistent  
13 with system reliability.

14 **Sec. 21.** NRS 704B.360 is hereby amended to read as follows:

15 704B.360 1. If the Commission approves an application that  
16 is filed pursuant to NRS 704B.310 or a request that is filed pursuant  
17 to NRS 704B.325, ~~{the Commission shall order}~~ the eligible  
18 customer ~~{to}~~ *or the provider of new electric resources, as*  
19 *applicable, shall:*

20 (a) Pay its share of the annual assessment levied pursuant to  
21 NRS 704.033 to the Commission and the Bureau of Consumer  
22 Protection in the Office of the Attorney General;

23 (b) Pay any other tax, fee or assessment that would be due a  
24 governmental entity had the eligible customer continued to purchase  
25 energy, capacity or ancillary services from the electric utility; ~~{and}~~

26 (c) Remit any tax, fee or assessment collected pursuant to  
27 paragraph (b) to the applicable governmental entity ~~{}~~; *and*

28 *(d) Pay any cost, fee or rate which:*

29 *(1) Would be due to the electric utility for the service*  
30 *territory of the eligible customer had the eligible customer*  
31 *continued to purchase energy, capacity or ancillary services from*  
32 *the electric utility;*

33 *(2) Is associated with the implementation of any provision*  
34 *of chapter 701B, 702 or 704 of NRS; and*

35 *(3) Is determined by the Commission to be appropriate for*  
36 *payment by an eligible customer or provider of new electric*  
37 *resources, as applicable. The Commission shall annually*  
38 *determine the costs, fees and rates described in this paragraph*  
39 *which are appropriate for payment by an eligible customer or*  
40 *provider of new electric resources, as applicable.*

41 2. Each person or entity that is responsible for billing an  
42 eligible customer shall ensure that the amount which the eligible  
43 customer must pay pursuant to paragraph (b) of subsection 1 is set  
44 forth as a separate item or entry on each bill submitted to the eligible  
45 customer.



3. If an eligible customer to whom an order is issued pursuant to subsection 1 thereafter purchases energy, capacity or ancillary services from an alternative provider pursuant to NRS 704B.325 without obtaining the approval of the Commission, the order issued pursuant to subsection 1 continues to apply to the eligible customer.

4. Upon petition by a governmental entity to which a tax, fee or assessment must be remitted pursuant to this section ~~and~~ *or the Regulatory Operations Staff of the Commission*, the Commission may limit, suspend or revoke any order issued to an eligible customer by the Commission pursuant to NRS 704B.310 ~~and 704B.320~~, *limit, suspend or revoke any license issued to a provider of new electric resources pursuant to section 9 of this act, or impose an administrative fine pursuant to NRS 703.380, or both limit, suspend or revoke any order or license and impose an administrative fine pursuant to NRS 703.380*, if the Commission, after providing an appropriate notice and hearing, determines that the eligible customer *or provider of new electric resources, as applicable*, has failed to pay ~~the~~ *any* tax, fee, ~~or~~ assessment ~~and~~ *cost or rate required to be paid or remitted pursuant to subsection 1.*

**Sec. 22.** NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685,





1 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438,  
2 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503,  
3 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510,  
4 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379,  
5 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205,  
6 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247,  
7 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180,  
8 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495,  
9 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259,  
10 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035,  
11 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315,  
12 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698,  
13 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535,  
14 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484,  
15 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350,  
16 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175,  
17 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,  
18 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170,  
19 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735,  
20 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140,  
21 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,  
22 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,  
23 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940,  
24 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363,  
25 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452,  
26 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964,  
27 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710,  
28 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341,  
29 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327,  
30 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047,  
31 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368,  
32 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055,  
33 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087,  
34 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730,  
35 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190,  
36 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170,  
37 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870,  
38 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092,  
39 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375,  
40 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033,  
41 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115,  
42 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450,  
43 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122,  
44 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270,  
45 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077,



1 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010,  
2 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190,  
3 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420,  
4 693A.480, 693A.615, 696B.550, 696C.120, 703.196, ~~704B.320,~~  
5 704B.325, 706.1725, 706A.230, 710.159, 711.600, sections 35, 38  
6 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of  
7 chapter 391, Statutes of Nevada 2013 and unless otherwise declared  
8 by law to be confidential, all public books and public records of a  
9 governmental entity must be open at all times during office hours to  
10 inspection by any person, and may be fully copied or an abstract or  
11 memorandum may be prepared from those public books and public  
12 records. Any such copies, abstracts or memoranda may be used to  
13 supply the general public with copies, abstracts or memoranda of the  
14 records or may be used in any other way to the advantage of the  
15 governmental entity or of the general public. This section does not  
16 supersede or in any manner affect the federal laws governing  
17 copyrights or enlarge, diminish or affect in any other manner the  
18 rights of a person in any written book or record which is  
19 copyrighted pursuant to federal law.

20 2. A governmental entity may not reject a book or record  
21 which is copyrighted solely because it is copyrighted.

22 3. A governmental entity that has legal custody or control of a  
23 public book or record shall not deny a request made pursuant to  
24 subsection 1 to inspect or copy or receive a copy of a public book or  
25 record on the basis that the requested public book or record contains  
26 information that is confidential if the governmental entity can  
27 redact, delete, conceal or separate the confidential information from  
28 the information included in the public book or record that is not  
29 otherwise confidential.

30 4. A person may request a copy of a public record in any  
31 medium in which the public record is readily available. An officer,  
32 employee or agent of a governmental entity who has legal custody  
33 or control of a public record:

34 (a) Shall not refuse to provide a copy of that public record in a  
35 readily available medium because the officer, employee or agent has  
36 already prepared or would prefer to provide the copy in a different  
37 medium.

38 (b) Except as otherwise provided in NRS 239.030, shall, upon  
39 request, prepare the copy of the public record and shall not require  
40 the person who has requested the copy to prepare the copy himself  
41 or herself.

42 **Sec. 23.** NRS 239C.270 is hereby amended to read as follows:

43 239C.270 1. Each utility *and each provider of new electric*  
44 *resources* shall:



1 (a) Conduct a vulnerability assessment in accordance with the  
2 requirements of the federal and regional agencies that regulate the  
3 utility ~~§~~ *or provider*; and

4 (b) Prepare and maintain an emergency response plan in  
5 accordance with the requirements of the federal and regional  
6 agencies that regulate the utility ~~§~~ *or provider*.

7 2. Each utility shall:

8 (a) As soon as practicable but not later than December 31, 2003,  
9 submit its vulnerability assessment and emergency response plan to  
10 the Division; and

11 (b) At least once each year thereafter, review its vulnerability  
12 assessment and emergency response plan and, as soon as practicable  
13 after its review is completed but not later than December 31 of each  
14 year, submit the results of its review and any additions or  
15 modifications to its emergency response plan to the Division.

16 3. *Each provider of new electric resources shall:*

17 (a) *As soon as practicable but not later than December 31,*  
18 *2019, submit its vulnerability assessment and emergency response*  
19 *plan to the Division; and*

20 (b) *At least once each year thereafter, review its vulnerability*  
21 *assessment and emergency response plan and, as soon as*  
22 *practicable after its review is completed but not later than*  
23 *December 31 of each year, submit the results of its review and any*  
24 *additions or modifications to its emergency response plan to the*  
25 *Division.*

26 4. Except as otherwise provided in NRS 239.0115, each  
27 vulnerability assessment and emergency response plan of a utility *or*  
28 *provider of new electric resources* and any other information  
29 concerning a utility *or provider* that is necessary to carry out the  
30 provisions of this section is confidential and must be securely  
31 maintained by each person or entity that has possession, custody or  
32 control of the information.

33 ~~§~~ 5. Except as otherwise provided in NRS 239C.210, a  
34 person shall not disclose such information, except:

35 (a) Upon the lawful order of a court of competent jurisdiction;

36 (b) As is reasonably necessary to carry out the provisions of this  
37 section or the operations of the utility ~~§~~ *or provider of new electric*  
38 *resources*, as determined by the Division;

39 (c) As is reasonably necessary in the case of an emergency  
40 involving public health or safety, as determined by the Division; or

41 (d) Pursuant to the provisions of NRS 239.0115.

42 ~~§~~ 6. If a person knowingly and unlawfully discloses such  
43 information or assists, solicits or conspires with another person to  
44 disclose such information, the person is guilty of:

45 (a) A gross misdemeanor; or



1 (b) A category C felony and shall be punished as provided in  
2 NRS 193.130 if the person acted with the intent to:

3 (1) Commit, cause, aid, further or conceal, or attempt to  
4 commit, cause, aid, further or conceal, any unlawful act involving  
5 terrorism or sabotage; or

6 (2) Assist, solicit or conspire with another person to commit,  
7 cause, aid, further or conceal any unlawful act involving terrorism  
8 or sabotage.

9 *7. As used in this section, "provider of new electric*  
10 *resources" has the meaning ascribed to it in NRS 704B.130.*

11 **Sec. 24.** 1. Notwithstanding any other provision of law, an  
12 application filed before the effective date of this act pursuant to  
13 NRS 704B.310, as that section existed before the effective date of  
14 this act, shall be deemed to be denied by the Public Utilities  
15 Commission of Nevada unless the Commission has issued a final  
16 order approving the application before July 1, 2019. A person whose  
17 application is deemed to be denied pursuant to this section may file  
18 an application with the Commission pursuant to NRS 704B.310, as  
19 amended by section 17 of this act. If a person whose application is  
20 deemed to be denied pursuant to this section files an application  
21 with the Commission pursuant to NRS 704B.310, as amended by  
22 section 17 of this act, the Commission shall give priority to the  
23 person when determining whether the annual limit on the total  
24 amount of energy and capacity that eligible customers may purchase  
25 from providers of new electric resources, which is included in a plan  
26 submitted to the Commission pursuant to subsection 6 of NRS  
27 704.741, as amended by section 5 of this act, and accepted by the  
28 Commission pursuant to NRS 704.746, as amended by section 6 of  
29 this act, has been exceeded.

30 2. As used in this section:

31 (a) "Eligible customer" has the meaning ascribed to it in NRS  
32 704B.080, as amended by section 12 of this act.

33 (b) "Provider of new electric resources" has the meaning  
34 ascribed to it in NRS 704B.130.

35 **Sec. 25.** Notwithstanding the provisions of NRS 704B.080, as  
36 amended by section 12 of this act, an eligible customer who, before  
37 the effective date of this act, was approved to purchase energy,  
38 capacity or ancillary services from a provider of new electric  
39 resources pursuant to the provisions of NRS 704B.310, as that  
40 section existed before the effective date of this act, shall be deemed  
41 to be an eligible customer on and after the effective date of this act.

42 **Sec. 26.** 1. Notwithstanding the provisions of NRS  
43 704B.300, as amended by section 16 of this act, a provider of new  
44 electric resources who, before the effective date of this act, sold  
45 energy, capacity or ancillary services to one or more eligible



1 customers that were approved to purchase energy, capacity or  
2 ancillary services from the provider pursuant to NRS 704B.310, as  
3 that section existed before the effective date of this act, may, on and  
4 after the effective date of this act, sell energy, capacity or ancillary  
5 services to that eligible customer without obtaining a license from  
6 the Public Utilities Commission of Nevada pursuant to section 9 of  
7 this act if:

8 (a) Not later than 30 days after a date established by the  
9 Commission by regulation, the provider submits to the Commission  
10 an application for a license pursuant to section 9 of this act; and

11 (b) The Commission approves the application and issues a  
12 license to the provider.

13 2. Notwithstanding the provisions of NRS 704B.310, as  
14 amended by section 17 of this act, an eligible customer who, before  
15 the effective date of this act, was approved to purchase energy,  
16 capacity or ancillary services from a provider of new electric  
17 resources pursuant to the provisions of NRS 704B.310, as that  
18 section existed before the effective date of this act, may, on and  
19 after the effective date of this act, purchase energy, capacity and  
20 ancillary services from that provider if:

21 (a) Not later than 30 days after a date established by the  
22 Commission by regulation, the provider submits to the Commission  
23 an application for a license pursuant to section 9 of this act; and

24 (b) The Commission approves the application and issues a  
25 license to the provider.

26 3. Notwithstanding the provisions of NRS 704B.325, as  
27 amended by section 18 of this act, an eligible customer who, before  
28 the effective date of this act, was approved to purchase energy,  
29 capacity or ancillary services from a provider of new electric  
30 resources pursuant to the provisions of NRS 704B.310, as that  
31 section existed before the effective date of this act, may, on and  
32 after the effective date of this act, purchase energy, capacity or  
33 ancillary services from an alternative provider pursuant to NRS  
34 704B.325, as amended by section 18 of this act, if:

35 (a) Before the effective date of this act, the alternative provider  
36 sold energy, capacity or ancillary services to any eligible customer  
37 pursuant to a transaction approved pursuant to NRS 704B.310 or  
38 704B.325, as those sections existed before the effective date of this  
39 act;

40 (b) Not later than 30 days after a date established by the  
41 Commission by regulation, the provider submits to the Commission  
42 an application for a license pursuant to section 9 of this act; and

43 (c) The Commission approves the application and issues a  
44 license to the provider.



1       **Sec. 27.** NRS 704B.060, 704B.070, 704B.260 and 704B.320  
2 are hereby repealed.

3       **Sec. 28.** This act becomes effective upon passage and  
4 approval.

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**TEXT OF REPEALED SECTIONS**

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**704B.060 “Electric utility that primarily serves densely populated counties” defined.** “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 700,000 or more than it does from customers located in counties whose population is less than 700,000.

**704B.070 “Electric utility that primarily serves less densely populated counties” defined.** “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 700,000 than it does from customers located in counties whose population is 700,000 or more.

**704B.260 Electric utilities may enter into certain agreements relating to generation assets; increased energy, capacity or ancillary services deemed new electric resource; ownership and use of new electric resource; limitations; duties and restrictions imposed on Commission.**

1. Except as otherwise provided in this section, an electric utility may, at its discretion, enter into agreements relating to its generation assets and the energy, capacity or ancillary services provided by its generation assets with one or more other persons who are not electric utilities. Such agreements, without limitation:

(a) May include agreements to construct or install a new generation asset on real property that is adjacent to an existing generation asset owned by the electric utility; and

(b) May provide for the sharing of available common facilities with the existing generation asset or the reengineering, repowering or expansion of the existing generation asset to generate energy more efficiently and at a lower cost and to make more energy available to customers in this state.



2. Any increased energy, capacity or ancillary services made available from a new generation asset or an existing generation asset pursuant to an agreement described in subsection 1 shall be deemed to be a new electric resource that may be:

(a) Owned by the parties to the agreement who are not electric utilities; and

(b) Used or consumed by such parties for their own purposes, sold at wholesale by such parties or sold by such parties to one or more eligible customers pursuant to the provisions of this chapter.

3. A transaction undertaken pursuant to an agreement described in subsection 1:

(a) Must not impair system reliability or the ability of the electric utility to provide electric service to its customers; and

(b) Must not violate the provisions of NRS 704.7561 to 704.7595, inclusive.

4. The provisions of this section do not exempt any party to an agreement described in subsection 1 from any applicable statutory or regulatory requirements relating to siting, construction and operation of a generation asset.

5. The Commission shall encourage the development of new electric resources and shall not exercise its regulatory authority in a manner that unnecessarily or unreasonably restricts, conditions or discourages any agreement described in subsection 1 that is likely to result in increased energy, capacity or ancillary services from a generation asset or improved or more efficient operation or management of a generation asset.

**704B.320 Conditions and limitations for certain proposed transactions; requirements for certain eligible customers; limited disclosure of certain information; duties of Commission; compliance with portfolio standard.**

1. For eligible customers whose loads are in the service territory of an electric utility that primarily serves densely populated counties, the aggregate amount of energy that all such eligible customers purchase from providers of new electric resources before July 1, 2003, must not exceed 50 percent of the difference between the existing supply of energy generated in this State that is available to the electric utility and the existing demand for energy in this State that is consumed by the customers of the electric utility, as determined by the Commission.

2. An eligible customer that is a nongovernmental commercial or industrial end-use customer whose load is in the service territory of an electric utility that primarily serves densely populated counties shall not purchase energy, capacity or ancillary services from a provider of new electric resources unless, as part of the proposed transaction, the eligible customer agrees to:



(a) Contract with the provider to purchase:

(1) An additional amount of energy which is equal to 10 percent of the total amount of energy that the eligible customer is purchasing for its own use under the proposed transaction and which is purchased at the same price, terms and conditions as the energy purchased by the eligible customer for its own use; and

(2) The capacity and ancillary services associated with the additional amount of energy at the same price, terms and conditions as the capacity and ancillary services purchased by the eligible customer for its own use; and

(b) Offers to assign the rights to the contract to the electric utility for use by the remaining customers of the electric utility.

3. If an eligible customer is subject to the provisions of subsection 2, the eligible customer shall include with its application filed pursuant to NRS 704B.310 all information concerning the contract offered to the electric utility that is necessary for the Commission to determine whether it is in the best interest of the remaining customers of the electric utility for the electric utility to accept the rights to the contract. Such information must include, without limitation, the amount of the energy and capacity to be purchased under the contract, the price of the energy, capacity and ancillary services and the duration of the contract.

4. Notwithstanding any specific statute to the contrary, information concerning the price of the energy, capacity and ancillary services and any other terms or conditions of the contract that the Commission determines are commercially sensitive:

(a) Must not be disclosed by the Commission except to the Regulatory Operations Staff of the Commission, the Consumer's Advocate, the staff of the Consumer's Advocate and the electric utility for the purposes of carrying out the provisions of this section; and

(b) Except as otherwise provided in NRS 239.0115, shall be deemed to be confidential for all other purposes, and the Commission shall take such actions as are necessary to protect the confidentiality of such information.

5. If the Commission determines that the contract:

(a) Is not in the best interest of the remaining customers of the electric utility, the electric utility shall not accept the rights to the contract, and the eligible customer is entitled to all rights to the contract.

(b) Is in the best interest of the remaining customers of the electric utility, the electric utility shall accept the rights to the contract and the eligible customer shall assign all rights to the contract to the electric utility. A contract that is assigned to the electric utility pursuant to this paragraph shall be deemed to be an





approved part of the resource plan of the electric utility and a prudent investment, and the electric utility may recover all costs for the energy, capacity and ancillary services acquired pursuant to the contract. To the extent practicable, the Commission shall take actions to ensure that the electric utility uses the energy, capacity and ancillary services acquired pursuant to each such contract only for the benefit of the remaining customers of the electric utility that are not eligible customers, with a preference for the remaining customers of the electric utility that are residential customers with small loads.

6. The provisions of this section do not exempt the electric utility, in whole or in part, from the requirements imposed on the electric utility pursuant to NRS 704.7801 to 704.7828, inclusive, to comply with its portfolio standard. The Commission shall not take any actions pursuant to this section that conflict with or diminish those requirements.

