

PROPOSED REGULATION OF THE PUBLIC UTILITIES

COMMISSION OF NEVADA

LCB File No. R172-99

November 8, 1999

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

AUTHORITY: §§1-9, NRS 703.025 and 704.983.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 9, inclusive, of this regulation, unless the context otherwise requires, “electric utility” means a vertically integrated electric utility or its successor electric distribution utility, as appropriate.*

Sec. 3. 1. *Notwithstanding any provision of sections 2 to 9, inclusive, of this regulation to the contrary, the commission will determine the appropriate method for determining the past costs that an electric utility may recover pursuant to NRS 704.983 as part of the disposition by the commission of an application for recoverable cost filed by the electric utility.*

2. *Nothing in sections 2 to 9, inclusive, of this regulation that requires the submission of information commits the commission to using any particular approach on any issue relating to the recovery of past costs pursuant to NRS 704.983 based on that information. The inclusion of any requirement in sections 2 to 9, inclusive, of this regulation on an electric utility to calculate the market value of an asset or obligation, demonstrate its efforts in mitigation or indicate any mechanism for truing up the costs sought to be recovered does not require the commission to use any particular administrative method for determining the market value of*

the costs to be recovered. Nothing in sections 2 to 9, inclusive, of this regulation requires the commission to use or consider using any process for truing up costs sought to be recovered by an electric utility.

Sec. 4. 1. *Unless otherwise determined by the commission, not later than 6 weeks after the commission issues an order relating to the plan for compliance filed by an electric utility pursuant to NRS 704.986, the electric utility may file an application for recoverable costs in accordance with sections 2 to 9, inclusive, of this regulation for the recovery of costs associated with aggregation, generation, billing, metering and customer service.*

2. Upon the determination by the commission that any additional service has become a potentially competitive service, the commission will, in its order making such a determination, outline a schedule pursuant to which an electric utility may file an application for recoverable costs for those services in accordance with sections 2 to 9, inclusive, of this regulation.

3. Within 3 months after the date on which alternative sellers may begin providing a potentially competitive service to customers, an electric utility which has filed an application for recoverable costs relating to that potentially competitive service shall file with the commission an update of the information contained in its application for recoverable costs relating to the projections by the electric utility for those recoverable costs associated with the assets and obligations used by the electric utility in the provision of the potentially competitive service that have been accepted by the commission as recoverable costs.

4. Within 3 weeks after a final sales agreement has been executed for the disposition of an asset or obligation of an electric utility used to provide a potentially competitive service, the electric utility shall file with the commission an update of the recoverable costs associated with the asset or obligation.

Sec. 5. 1. *In its application for recoverable costs, an electric utility shall:*

(a) Indicate the unrecovered portion of the book cost of the recoverable costs that is attributable to each potentially competitive service, as updated pursuant to subsection 3 of section 4 of this regulation;

(b) Indicate the estimate of the unrecovered portion of the book cost that will be attributable to each potentially competitive service as of the date on which alternative sellers may begin providing that service to customers;

(c) Indicate, where applicable, the level of the book cost that is unrecovered for each year until the level of the book cost equals zero; and

(d) Include a full description and explanation of any assets or obligations that the electric utility expects to acquire between the date on which it files its application for recoverable costs and the date on which alternative sellers may begin providing the potentially competitive service to customers.

2. *The amount of costs sought to be recovered by an electric utility must be based on the statements and schedules which the electric utility has included in its plan for compliance filed with the commission pursuant to NRS 704.986, or in the statements and schedules required to be filed by an order of the commission deeming a service to be potentially competitive. An electric utility shall update such statements and schedules as often as necessary to reflect any changes to the book costs originally proposed by the electric utility in its plan of compliance that are made by the commission in its order relating to that plan of compliance.*

Sec. 6. *An application for recoverable costs filed by an electric utility must include the following information, without limitation:*

1. For each potentially competitive service, an itemized list of all assets and contractual obligations used by the electric utility in the provision of the potentially competitive service, including a listing of the individual account numbers, including subaccounts if necessary, that are attributable to each asset or obligation, with separate columns provided for all recorded amounts, adjustments and allocations, including:

(a) For each asset:

(1) The date on which the asset was originally acquired.

(2) A statement of the original and continuing need for the acquisition of the asset.

(3) The original cost of the asset.

(4) The accumulated depreciation and associated depreciation rate on the asset.

(5) The net book value of the asset.

(6) The associated deferred taxes that have accumulated on the asset, by account and vintage year.

(7) The current market value of the asset, unless the market value of the asset is to be determined by the sale of the asset in the open market.

(8) All costs that are properly associated with and allocable to the asset which are not included elsewhere in the application.

(9) The tax base of the asset used to calculate capital gains or losses for the purpose of federal taxes.

Information for each asset from a generating facility must be indicated by individual unit for each generating facility of the electric utility. For all other assets used by the electric utility in the provision of potentially competitive services, the electric utility shall report information

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pursuant to this subsection separately for each potentially competitive service, when such separation is possible.

(b) For each contract or other obligation:

(1) A copy of the contract or a description of the obligation.

(2) A statement of the original and continuing need for the contract or obligation.

(3) The amount of the deferred taxes that have accumulated on the contract or obligation, by account and vintage year, as applicable.

(c) For each obligation, the remaining life of the obligation and a projection of the amount of the obligation, on an annual basis, over the remaining life of the obligation and brought to present value, including a description of all assumptions used to make the projection.

(d) For each contract, unless the market value of the contract was determined by sale in the open market, the current market value of the services or products, or both, to be provided under the contract, projected on an annual basis over the remaining life of the contract and brought to present value, including a description of all assumptions used to make the projection, to ensure that a comparison of the contract with other similar contracts is in similar terms and conditions.

(e) A list of all embedded debt and preferred stock issues, including:

(1) For stock issues, the initial principle balance, the current principle balance, the interest rate, the unamortized gain or loss on any reacquisition of the stock issues and the timing and prices pursuant to which each issue may be called before maturity, if applicable; and

(2) For debt issues, whether the issue is a mortgage bond of a debenture issue, and if so, a description of assets that are encumbered by the mortgage bond.

2. For each asset, contract or obligation used for the provision of a potentially competitive service that was sold by the electric utility:

(a) A description of the method by which the asset, contract or obligation was disposed of, the price or other consideration given and received for the asset, contract or obligation, and the names of the persons who acquired the asset, contract or obligation; and

(b) A copy of each response to and letter of interest concerning the disposition of the asset, contract or obligation, and a copy of the contract of the sale or disposition of each asset, contract or obligation, including all terms and conditions, such as put or call options upon the generation or purchased power.

3. For the expenses incurred by the electric utility associated with minimizing layoffs of employees and other adverse effects to the employees of the utility resulting from the transition to a competitive market:

(a) The number of employees for whom these expenses were incurred;

(b) A copy of the plans and programs for severance, retraining, job placement, early retirement and any other plan or program undertaken by the electric utility to minimize the adverse affects of the transition on its employees; and

(c) The total cost to carry out and administer these plans and programs.

Sec. 7. 1. Unless the market value of an asset or obligation has been or will be determined by the sale of the asset or obligation on the open market, an electric utility shall, in determining the market value of an asset or obligation identified in its application for recoverable costs pursuant to section 6 of this regulation, include in its application at least three estimates of the market value of the asset or obligation, using multiple techniques for determining value that consider:

- (a) The market power derived from the nature of the load pocket of the system of the integrated electric utility;*
- (b) The market power derived from the locations of the sites of the asset, such as contracts for fuel supply and the proximity of the asset to gas pipelines, sources of water and transmission lines;*
- (c) Any mitigation of the market power resulting from the actions of the commission or the Federal Energy Regulatory Commission;*
- (d) For generating facilities, the state of maintenance of the generation facilities;*
- (e) Projected revenue streams;*
- (f) All expenses related to ongoing operation and maintenance;*
- (g) Possible debt responsibility for specific assets;*
- (h) Possible additional investments that the electric utility may make to increase market value; and*
- (i) Other possible relevant factors.*

2. An electric utility shall not include in its application for recoverable costs any request for the recovery of costs incurred by the electric utility as a result of the implementation of a competitive market. An electric utility may request to recover such costs, where legitimate, in future rate cases associated with the provision of noncompetitive services by the electric utility in compliance with this chapter and chapter 704 of NRS.

3. In determining which costs are recoverable, the commission will consider the efforts of an electric utility to minimize its federal taxes resulting from offsetting gains and losses of the assets and obligations of the electric utility that are properly allocable to a potentially competitive service.

Sec. 8. 1. *For each of the elements of cost identified by an electric utility in its application for recoverable costs pursuant to sections 6 and 7 of this regulation, the electric utility shall describe all significant efforts that the electric utility took to mitigate the recoverable costs by reducing the cost, or increasing the value and realizing the increase in value, of its assets and obligations and shall provide information indicating if and how the efforts by the electric utility to mitigate its recoverable costs actually reduced those costs, including, without limitation:*

(a) The refinancing efforts of the electric utility to reduce capital costs or facilitate the disposition of the associated assets, or both;

(b) The efforts of the electric utility to identify entities willing to pay amounts exceeding book costs for the rights and obligations associated with the costs sought to be recovered;

(c) The efforts of the electric utility to increase its operating efficiency;

(d) The efforts of the electric utility to reduce its costs of input;

(e) The efforts of the electric utility to find other more economical uses for the asset;

(f) The efforts of the electric utility to find new markets for the output of the asset;

(g) The efforts of the electric utility to extend the economic life of the asset;

(h) The extent to which the electric utility may be able to fulfill its obligations with no further outlays of cash;

(i) The curtailment of pension and employee benefit plans arising from the divestiture by the electric utility of its generation services and other employee-related changes;

(j) The costs and benefits of exercising any options that the electric utility has to renegotiate a contract or an obligation, including a description of all overtures concerning these options for renegotiation, including:

(1) Overtures made by the electric utility to a seller; and

(2) Overtures made by a seller to the electric utility; and

(l) The possibility of exercising any other contractual clause to mitigate the cost of the contract.

FLUSH *The electric utility shall include the effects of its efforts to mitigate its recoverable costs in its calculation of the recoverable costs.*

2. For all other costs, expenses and revenues included by an electric utility in its application for recoverable costs pursuant to sections 5 and 6 of this regulation, the electric utility shall describe its efforts to mitigate the recoverable costs, or maximize and realize the value of the assets, through:

(a) Maximizing tax deductions that result in the least cost to the ratepayers;

(b) Renegotiating contracts for fuel and transportation of fuel; and

(c) Exercising clauses for cancellation and termination in its contracts for fuel that are uneconomic to avoid incurring uneconomic costs.

3. For each element of cost that an electric utility has included in its application for recoverable costs, the electric utility must include all information which indicates whether the electric utility was legally required to incur the cost as a result of the actions or statements of the commission or by state or federal law, except that the electric utility may not claim that it incurred a cost because of its general legal obligation to serve its customers or include any information in its application for recoverable costs in an attempt to support such a claim. If the electric utility indicates that it was legally required to incur the cost, the electric utility must provide all information, including descriptions of the actions and statements of the

commission and citations to the state or federal law, that support its claim that it was legally required to incur the cost.

4. For each element of cost that an electric utility includes in its application for recoverable costs which the electric utility had the discretion to incur or to mitigate, the electric utility shall identify all information which indicates that the conduct of the electric utility was, with respect to such a cost, similar to the conduct of other similarly situated utilities.

5. For each element of cost that an electric utility includes in its application for recoverable costs, the electric utility shall indicate if, and to what extent, the rates previously established by the commission have compensated the shareholders of the electric utility for the risk of not recovering the full cost of the assets or obligations.

6. Based on the information provided by an electric utility in its application for recoverable costs pursuant to subsections 1 to 5, inclusive, the electric utility shall, except as otherwise provided in subsection 7, calculate the total amount of its proposed recoverable costs according to the following equation:

Recoverable costs = (the amount of the cost incurred for an asset or obligation) minus (the amount by which those costs were mitigated) minus (the market value of the asset or obligation for which the cost was incurred)

7. The commission may revise the equation pursuant to which an electric utility must calculate the amount of recoverable cost to reflect:

(a) If the electric utility had the discretion to incur the cost, any excess of book costs over the level of book costs incurred by similarly situated utilities; and

(b) The extent, if any, to which the electric utility was previously compensated for the risk of making less than full recovery of the costs incurred.

Sec. 9. *In its application for recoverable costs, an electric utility shall:*

1. For each of the costs identified in its application, propose and support a mechanism to recover the costs and a period for recovering those costs. The mechanism to recover the costs and the period for recovering the costs proposed by the electric utility pursuant to this subsection do not need to be the same for each category of costs.

2. Identify all tax consequences associated with the recovery of the costs.

3. Propose and support a return on the unrecovered portion of that portion of the costs sought to be recovered for which the electric utility is receiving a return under current ratemaking practices, taking into account the security of recovery assumed in the other elements of its application for recoverable costs.

4. Calculate a projected annual total cost to ratepayers for the period during which the electric utility will recover costs until all costs have been reduced to zero, taking into account the various periods proposed by the electric utility for recovering costs and any tax consequences associated with the recovery of those costs.

5. Propose tariffs for the mechanisms for recovering costs preferred by the electric utility, and identify and provide support for:

(a) The source of payment for those costs, such as recovery of the costs directly from ultimate customers or from alternative sellers, or from both ultimate customers and alternative sellers;

(b) The method and design of the proposed charge, including, without limitation, a charge based on future kilowatt-hour consumption, past kilowatt-hour consumption, future kilowatt demand or past kilowatt demand;

(c) Any mechanism for truing up the amount of the costs to be recovered, if so desired by the electric utility;

(d) An annual projection of the proposed charges to be assessed against a typical residential customer resulting from the recovery of the costs;

(e) The treatment by the electric utility of customers who:

(1) Take service at transmission voltage rather than at distribution voltage;

(2) Self-generate; or

(3) Were not customers of the electric utility before a mechanism for the recovery of costs is initiated, but who have moved into the service territory of the electric utility after the mechanism is initiated;

(f) The treatment by the electric utility of customers, if any, who wish to pay their past costs up front, including an identification of whether the electric utility or the customer will bear the risk if the amount paid up front by the customer turns out to be insufficient to recover the costs of the electric utility; and

(g) All reasons why the proposed mechanism:

(1) Is consistent with NRS 704.983, including the requirement set forth in subsection 2 of that section that the recovery of costs be direct and unavoidable; and

(2) Achieves the goals of economic efficiency, competitive neutrality, administrative feasibility and the orderly implementation of effective competition.