

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

LCB File No. R049-06

Effective November 13, 2006

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

AUTHORITY: §§1-12, NRS 703.025 and 704.210.

A REGULATION relating to public utilities; revising provisions governing the application process for adjustments in rates of certain public utilities; and providing other matters properly relating thereto.

Section 1. Chapter 703 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *If a public utility which purchases natural gas for resale elects, pursuant to subsection 4 of NRS 704.110, to submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances, it shall submit the application and statement not later than 155 days after the end of the 12-month period described in subsection 3 of NRS 704.110 for which data was available when the application was prepared. The statement must include all expected changes in circumstances for the 12-month period that ends 210 days after the application is submitted.*

Sec. 3. *For the purposes of subsection 4 of NRS 704.110, the Commission will consider expected changes in circumstances to be reasonably known and measurable with reasonable accuracy if the expected changes in circumstances:*

1. Consist of specific and identifiable events or programs rather than general trends, patterns or developments;

2. Have an objectively high probability of occurring to the degree, in the amount and at the time expected; and

3. Are primarily measurable by recorded or verifiable revenues and expenses and are easily and objectively calculated, with the calculation of the expected changes relying only secondarily on estimates, forecasts, projections or budgets.

Sec. 4. NAC 703.2201 is hereby amended to read as follows:

703.2201 As used in NAC 703.2201 to 703.2481, inclusive, *and sections 2 and 3 of this regulation*, unless the context otherwise requires:

1. “Uniform system of accounts” means uniform system of accounts prescribed for public utilities and licensees, classes A, B, C and D, which were published by the Federal Energy Regulatory Commission and adopted by reference in NAC 704.650.

2. “Unit” means the quantitative measurement of an item, or level of use, consumption or effort.

3. “Unit rate” is that rate which when multiplied by the number of units within a given period results in the aggregate dollar amount applicable to that period.

Sec. 5. NAC 703.2245 is hereby amended to read as follows:

703.2245 1. Amounts which purport to represent recorded data and are included in a statement or schedule must be reported in a separate column or columns. Adjustments to recorded data must also be reported in a separate column or columns so that the recorded data and adjustment thereto and adjusted amounts are clearly disclosed.

2. ~~[Am]~~ *For the purposes of subsection 4 of NRS 704.110, adjustments which show the effects, on an annualized basis, of all expected changes in circumstances, and which are reasonably known and measurable with reasonable accuracy, must be reported in a separate*

column or columns so that the recorded data, adjustments to recorded data and adjustments that show the effects of all expected changes in circumstances are clearly disclosed.

3. Any adjustment to recorded data must be supported by workpapers detailing the calculations, units, unit rates and any other accounting or financial data necessary to completely explain and justify the proposed adjustments.

~~3.~~ 4. The applicant ~~must~~ shall calculate the adjustments to show the annual effect of the change in units or in the unit rate, or both, upon *the* applicant's weighted cost of capital, rate base or summary of earnings.

5. If the Commission considers an adjustment for all expected changes in circumstances in accordance with subsection 4 of NRS 704.110, the Commission may also consider all reasonably projected or forecasted offsets in revenue and expenses that are directly attributable to or associated with the expected changes in circumstances under consideration.

Sec. 6. NAC 703.2255 is hereby amended to read as follows:

703.2255 1. The data in support of the proposed ~~increase~~ change in rates must include the required recorded data, adjustments and other computations and information on which the applicant relies to justify the proposed rates.

2. Any data or summaries included in the application which reflect the book of accounts must be supported by accounting workpapers. The workpapers *must* contain, in separate columns, all necessary particulars from which an auditor may readily identify the book data included in the filing and a verification that such data are in agreement with the applicant's book of accounts. All statements, schedules and workpapers must be prepared in accordance with the classifications provided in the uniform system of accounts. Workpapers in support of all

adjustments, computations and other information included in the application must be cross-referenced, contain all relevant details and be available for inspection.

3. Each applicant ~~must~~ *shall* prepare and maintain workpapers sufficient to support the application. Failure to produce promptly such workpapers on request of an authorized representative of the Commission or the Consumer's Advocate is a cause for dismissal by the Commission of the application in its entirety. In addition to the workpapers, the following material, normally prepared by the applicant, must be made available for verification and analysis by the Commission's staff and the Consumer's Advocate. Upon request, a copy of the information must be furnished. If required for the analysis, the Commission will request:

- (a) Copies of monthly financial reports prepared for managerial purposes.
- (b) Copies of the accounting analyses of balance sheet accounts.
- (c) Complete trial balances of all the balance sheet accounts at the beginning and end of the 12 months of actual experience, and revenue and expense accounts for the 12 months of recorded data used for the application.
- (d) Analyses of the miscellaneous revenues and related expenses included in the submitted results of operations.
- (e) Analyses of accounts showing retained earnings or capital surplus.
- (f) *If the applicant is submitting a statement pursuant to subsection 4 of NRS 704.110, the most recent operating budget.*
- (g) Copies of all relevant reports and correspondence with other regulatory agencies.
- ~~(g)~~ (h) Copies of all relevant reports, returns and correspondence with federal, state and local authorities on taxes.

~~(b)~~ (i) If not confidential, copies of all managerial studies, reports and letters prepared by employees of the company and outside auditors.

Sec. 7. NAC 703.2301 is hereby amended to read as follows:

703.2301 Schedule F-1 is a schedule that shows the weighted average cost of debt capital based upon the following data for each class and series of debt outstanding according to the balance sheet as of the end of the period of testing and the cost of new securities issued pursuant to subsection 3 *or* 4 of NRS 704.110:

1. Title;
2. Date of issuance and final maturity;
3. Interest rate;
4. Principal amount of the issue, gross proceeds, discount and any premiums;
5. The amount and percentage of the gross proceeds of the issuance expense, including underwriters' discounts or commissions;
6. Principal amount of the issue outstanding, unamortized discount and expense and net proceeds outstanding;
7. Effective cost of the money;
8. If the issue is owned by an affiliate, the name and relationship of the owner; and
9. If the company has acquired at a discount or premium ~~(i)~~ some part of the outstanding debt which could be used in meeting sinking fund requirements ~~(i)~~ or for other reasons, it ~~must~~ *shall* show the annual amortization of the discount or premium for each series of debt from the date of reacquisition, over the remaining life of the debt being retired and separately show the total discount and premium as a result of such amortization, applicable to the period of testing.

Sec. 8. NAC 703.2305 is hereby amended to read as follows:

703.2305 Schedule F-2 is a schedule that shows the weighted average cost of preferred stock capital based upon the following data for each class and series of preferred stock outstanding according to the balance sheet as of the end of the period of testing and the cost of new securities issued pursuant to subsection 3 *or* 4 of NRS 704.110:

1. Title;
2. Date of issuance;
3. If callable, the call price;
4. If convertible, the terms of conversion;
5. Dividend rate;
6. Par or stated amount of the issue, gross proceeds and any premiums;
7. The amount and percentage of gross proceeds of the issuance expense, including underwriters' discounts or commissions;
8. Net proceeds;
9. Cost of the money;
10. Whether the issue was offered to stockholders through subscription rights or to the public; and
11. If the issue is owned by an affiliate, the name and relationship of the owner.

Sec. 9. NAC 703.2315 is hereby amended to read as follows:

703.2315 Schedule F-4 is a schedule that shows for each issue of common stock during the 6 years preceding the balance sheet as of the end of the period of testing and the cost of new securities issued pursuant to subsection 3 *or* 4 of NRS 704.110:

1. Number of shares sold;
2. Gross proceeds at offering price;

3. Amount and percentage of gross proceeds of underwriters' discounts or commissions;
4. Proceeds to applicant;
5. Amount and percentage of gross proceeds of issuance expenses; and
6. Net proceeds showing the offering price and net proceeds per share.

Sec. 10. NAC 703.2345 is hereby amended to read as follows:

703.2345 **1.** Statement H is a summary of the overall results of operations developed from the supporting schedules and statements. The statements must show ~~the~~ :

- (a) *The* amounts as recorded on the applicant's books ~~adjustments~~ ;
- (b) *Adjustments* during the year of testing for known changes ; and ~~estimated~~
- (c) *Either:*

(1) Estimated adjustments to be certified by the applicant ~~in accordance with subsection 3 of NRS 704.110; or~~

(2) Adjustments for expected changes in circumstances that are reasonably known and measurable with reasonable accuracy in accordance with subsection 4 of NRS 704.110 relating to a public utility which purchases natural gas for resale.

2. The statement must also include the requested rate of return and must show the application of the requested rate of return to the overall rate base.

Sec. 11. NAC 703.2351 is hereby amended to read as follows:

703.2351 If statement H contains adjustments for estimated changes beyond the actual year of testing, certification of these amounts must be submitted in statement I in accordance with subsection 3 of NRS 704.110 ~~unless filing in accordance with subsection 4 of NRS 704.110, in which case statement I is not necessary.~~ The certified amounts must be shown in statement I in the same format as statement H. Statement I must begin with the results of operations as

recorded and as adjusted for known changes during the year of testing from statement H. Each certified adjustment must be then shown. The necessary detail used to support each certified adjustment must be submitted with the statement.

Sec. 12. NAC 703.2355 is hereby amended to read as follows:

703.2355 1. Statement J must contain a statement that shows the revenues used to operate a utility classified in accordance with the accounts for operating revenue prescribed by the uniform system of accounts. Sales and service must be classified as between department, jurisdictional and nonjurisdictional, as applicable.

2. Jurisdictional operating revenues must be adjusted to show the annual effect of changes occurring during the period of testing. Adjusted sales for each rate schedule to show the annual effect of increases or decreases in the number of customers during such a period may be computed using the number of customers at the end of the period and the average annual usage and demand per customer, except where the applicant can attribute changes in sales directly to changes in the usage or demand of individual customers.

3. If statement H contains adjustments for estimated changes in expenses beyond the actual recorded year of testing ~~and~~ *and the application is being certified pursuant to subsection 3 of NRS 704.110*, the applicant in its statement I ~~must~~ *shall* adjust jurisdictional operating revenues to show the annual effect of changes occurring during the period for certification. Adjusted sales for each rate schedule to show the annual effect of increases or decreases in the number of customers during the period for certification ~~and~~ may be computed using the number of customers and the average annual usage and demand per customer at the end of the period for certification, except in those instances where the applicant can attribute changes in sales directly to changes in the usage or demand of individual customers.

4. Statement J must disclose, using supporting schedules as necessary, revenues by months and revenue totals for the period of testing. Statement J must also disclose, using supporting schedules as necessary, the revenue totals for such a period from adjusted jurisdictional sales as computed under the presently effective and proposed rates together with the differences in the annual revenues, and the actual annual revenues from the nonjurisdictional sales.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R049-06**

The Public Utilities Commission of Nevada adopted regulations assigned LCB File No. R049-06 which pertain to chapter 703 of the Nevada Administrative Code on October 25, 2006.

Notice date: 8/31/2006
Hearing date: 10/18/2006

Date of adoption by agency: 10/25/2006
Filing date: 11/13/2006

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

A Combined Notice of Intent to Amend/Adopt/Repeal Regulations and Notice of Workshop concerning proposed revisions to NAC 703 was issued on March 15, 2006. The Combined Notice, including the request for comments, was published in the Elko Daily Free Press, Las Vegas Review Journal, Nevada Appeal, Reno Gazette Journal, and Tonopah Times-Bonanza. Additionally, the notices were mailed to county clerks, county libraries and all persons who requested inclusion on the Commission's service list.

The following represents a summary of the written comments that were filed with the Commission prior to its properly noticed Workshop held on June 2, 2006:

Southwest Gas Corporation ("SWG") supported the proposed language that was attached to the Combined Notice.

The Regulatory Operations Staff of the Commission ("Staff") recommended additional amendments to NAC 703.2201 through 703.2481 so that the changes from Senate Bill ("S.B.") 238 are reflected throughout the appropriate NAC sections. Staff also suggested adding language regarding filing dates if a gas utility were to file a general rate case under Nevada Revised Statutes 704.110(4).

Newmont Mining Corporation ("Newmont") suggested that the Commission include language which offers guidance regarding what is "reasonable known and measurable with reasonable accuracy." Newmont addressed potential problems with single-issue ratemaking, suggesting that the Commission add language to the proposed regulations which incorporate the matching principle.

The following represents a summary of the public responses that were made to the Commission at the properly-noticed workshop held on June 2, 2006:

Staff, as spokesperson for all of the participants, requested to continue the workshop in order to allow for an additional round of written comments, which would reflect the submitted written comments as well as the Presiding Officer's suggestions. Staff volunteered to incorporate the suggestions into a document, which the other participants would use for round two of written comments. Staff's comments were filed on June 16, 2006 and included the legislative history to S.B. 238.

The participants were: Staff, the Bureau of Consumer Protection (“BCP”), SWG, Sierra Pacific Power Company (“Sierra”), and Newmont.

The following represents a summary of the written comments that were filed with the Commission prior to its continued Workshop held on August 3, 2006:

SWG supported the majority of the language changes proposed by Staff in its June 16, 2006 filing but proposed modifications to Staff’s language regarding the reasonably known and measurable with reasonable accuracy standard as well as single-issue ratemaking. SWG believes that the utility should be allowed to submit additional supporting materials related to the post-test year adjustments to the Commission and the parties as the information becomes available and that a “time clock” should not be imposed.

BCP supports the inclusion of a definition of “expected changes in circumstances” that “are reasonably known and are measurable with reasonable accuracy” but does not believe that Staff’s proposed language adequately addresses the concerns mentioned at the June 2, 2006 workshop. BCP supports the inclusion of the proposed adjustments with the initial rate filing of the utility in order to allow for full discovery by the parties involved.

Sierra does not believe that the reasonably known and measurable with reasonable accuracy standard needs to be addressed by the Commission in its regulations.

Newmont explained that its proposed language regarding the reasonably known and measurable standard in its May 31, 2006 comments was based significantly on the Commission’s own explanation of identical language in the Legislative Report from Docket No. 05-7048, which proposes a hybrid test year for electric utilities. Newmont expressed its support for implementing the matching principle as well as the inclusion of the proposed adjustments with the initial rate filing of the utility.

SWG filed surreply comments supporting Sierra’s position.

Newmont filed a response addressing the legislative history of S.B. 238.

The following represents a summary of the public responses that were made to the Commission at the continued workshop held on August 3, 2006:

Staff re-iterated that it believed the test year to be a historic one in which parties are bringing adjustments that happened beyond the recorded 12 months back into the 12 months and not a future test year which the Legislature rejected. Staff opined that setting parameters for the reasonably known and measurable with reasonable accuracy standard to help guide the Commission is not only necessary for the regulations but an accurate portrayal of what the parties are attempting to do versus defining the standard. Staff supports narrow parameters.

Sierra expressed its desire to not include language in the Commission’s regulations relating to consideration of offsets or the matching principle by the Commission.

SWG stated that it could go either way regarding the inclusion of offset language in the Commission’s regulations.

Staff, BCP and Newmont all support the inclusion of language in the Commission’s regulations regarding offsets, which was added to Section 5 of Staff’s proposed language with minor modifications

All of the participants agreed to use Staff’s June 16, 2006 proposed language with some additions and deletions, which are as follows: to adopt the “reasonably known and measurable” definition proposed by Newmont in its July 7, 2006 comments with some very minor

modifications, which will replace the entire Section 3 of Staff's proposed language, and to delete Section 12(4) of Staff's proposed language.

The participants were: Staff, BCP, SWG, Sierra and Newmont.

The following represents a summary of the written comments that were filed with the Commission prior to its Hearing held on October 18, 2006:

Newmont stated that Section 3 of the revised LCB version dated August 29, 2006 does not apply the itemized characteristics to "changes in characteristics," which was the intent of the parties, but to "revenues and expenses" and suggested corrective language. Newmont believes that the rephrasing of Section 5(3) is incorrect, not the intent of the participants and implies that subsection 4 adjustments are not adjustments to recorded data, which they are. Corrective language was suggested. The version of Section 10(1) which was presented to LCB was not reflective of Staff's June 16, 2006 proposed language. A revision was suggested that is reflective of Staff's intent while at the same time adopting LCB's format and other wording changes.

BCP filed comments supporting Newmont's modifications to Sections 3, 5, and 10.

Staff concurs that the LCB redraft is not consistent with the consensus language agreed to by the parties at the continued workshop on August 3, 2006 for Sections 3, 5.3, and 10.1. Staff supports Newmont's proposed revision to Section 10.1 and the second alternatives proposed to Sections 3 and 5.3.

The following represents a summary of the public responses that were made to the Commission at the duly-noticed hearing held on October 18, 2006:

Staff proposed the addition of a sentence to Section 2 for clarification purposes, which was agreed to by all the participants.

All of participants agreed to Newmont's second proposed alternative to both Sections 3 and 5.3. The words "affect revenues and expenses that" would be deleted from the introductory clause of Section 3. Section 5.3 would read "Any adjustment to recorded data must be supported by workpapers." Both of these alternatives were for clarification purposes.

SWG proposed the addition of a phrase to Section 6(3)(f) for clarification purposes, which was agreed to by all the participants.

All of the participants agreed that Newmont's revision of Section 10 is reflective of the intent of the parties and should therefore be adopted.

The participants were: Staff, BCP, SWG, Sierra and Newmont.

A copy of the summary may be obtained by calling the Commission at (775) 684-6100 or (702) 486-2600, or by writing to the Commission at 1150 East William Street, Carson City, Nevada 89701 or 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

- 2. The number of persons who**
 - (a) Attended the workshop**
 - 6/2/06 - 10**
 - 8/3/06 - 11**
 - (b) Testified at the workshop**
 - 6/2/06 - 2**
 - 8/3/06 - 8**

- (c) **Attended the hearing: 7**
- (d) **Testified at the hearing: 6**
- (e) **Submitted to the agency written comments: 5**

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notice placed in the newspapers mentioned in the response to question #1 above, by direct mailings to interested persons on the Commission's mailing list and by posting of notices at county libraries, courthouses and the Commission's website.

Appearances were made at the foregoing workshops and hearing by interested persons including representatives of: Staff, BCP, Sierra, SWG and Newmont.

Written comments were received as set forth in the responses to questions 1 and 2(e) above.

A summary of the comments is contained in answer #1 above.

A copy of the summary may be obtained by calling the Commission at (775) 684-6100 or (702) 486-2600, or by writing to the Commission at 1150 East William Street, Carson City, Nevada 89701 or 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The proposed regulation was drafted in accordance with the workshop that was held by the Commission. Changes were made pursuant to the suggestions from the participants. Additional clarifications were made at the Hearing on October 18, 2006 before the regulation was adopted by the Commission at a duly-noticed agenda meeting on October 25, 2006.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:

- (a) **Both adverse and beneficial effects; and**
- (b) **Both intermediate and long-term effects.**

The Commission completed a small business impact statement pursuant to NRS 233B.0608. Staff recommended, and the Commission found, that the proposed regulations do not impose a direct and significant economic burden upon small businesses nor do they directly restrict the formation, operation, or expansion of a small business.

The Commission cannot estimate the specific economic effect in dollars of the entire regulation upon the public or businesses at this time.

The regulation revises sections of NAC 703 of the Commission's regulations so that they conform to Senate Bill 238 from the 2005 Nevada Legislative Session.

6. The estimated cost to the agency for enforcement of the adopted regulation.

The Commission does not anticipate any increased costs associated with enforcement of the adopted regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The Commission is not aware of any overlap or duplication by this regulation of any regulation of any other local, state or federal government agencies.

8. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The Commission is not aware of any provision in this regulation that is more stringent than a federal regulation which regulates the same activity.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The Commission is not aware of any provision in this regulation that provides for a new fee, or increases an existing fee.