

Chapter 704 of NAC

LCB File No. T003-08

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

Docket No. 08-02037

Explanation- Matter in *italics* is new; matter in ~~strikethrough~~ is material to be omitted.

Section 1. NAC 704.9069 is hereby amended to read as follows

NAC 704.9069 “Financial plan” defined. “Financial plan” means a plan that demonstrates the financial impact of the preferred plan *and the top five alternative conservation and demand management options and supply options to the preferred plan* of a utility on the utility and its customers.

Section 2. NAC 704.9152 is hereby amended to read as follows:

NAC 704.9152 “Preferred plan” defined. “Preferred plan” means the selection by a utility of its preferred *conservation and demand management options and* supply options for a 20-year period.

Section 3. NAC 704.9225 is hereby amended to read as follows:

NAC 704.9225 Forecasts of peak demand and annual energy consumption: General requirements.

1. A utility’s resource plan must *include* ~~[contain a series of]~~ forecasts of the peak demand and annual energy consumption. *The forecasts must* ~~[that]~~ represent the range of future load which its system may be required to serve. The range of future peak demand and energy consumption must be based upon and consistent with the upper and lower limits of expected economic, *technological* and demographic change in the utility’s service territory in the next 20

years~~[,]~~. *The forecast period shall be 20 years and shall* commence ~~[ing]~~ with the year following the year in which the resource plan is filed. *The following forecasts must be included with a utility's resource plan or amendment to a resource plan* ~~[, as follows]:~~

- (a) A forecast of high growth;
- (b) A forecast of base growth; and
- (c) A forecast of low growth.

2. In each of the forecasts described in subsection 1, the utility shall account for customer response to changes in the prices of electric energy and substitute energy sources and to the impacts of existing and proposed programs undertaken by the utility or required by governmental regulation to alter current energy use patterns.

3. To the extent data is available, peak demand must be forecasted before accounting for the effects of cogeneration.

4. The utility shall maintain internal consistency among its forecasts. The forecast of peak demand must be consistent with the forecast of energy consumption and must be based on data which is normalized for weather pursuant to NAC 704.9245.

Section 4. NAC 704.923 is hereby amended to read as follows:

NAC 704.923 Periods to be covered by resource plan. The periods that must be covered by the utility's resource plan are as follows:

1. For historical data, the 10-year period preceding the year in which the resource plan is filed. If estimated data are used, the utility shall identify such data and describe the procedure by which the estimates were made.

2. For the forecasts of peak demand and energy consumption, the 20-year period *commencing* ~~[beginning]~~ with the year *following the year* in which the resource plan is filed.

3. In addition to the periods listed in sections 1 and 2 above, a utility may provide for consideration data and forecasts from additional periods.

Section 5. NAC 704.934 is hereby amended to read as follows:

NAC 704.934 Preparation, contents and submission of demand side plan. [~~annual filing of analyses regarding conservation and demand management programs.~~]

1. As part of its resource plan, a utility shall submit a demand side plan.

2. The demand side plan must include:

(a) An identification of end-uses for programs for conservation and demand management.

(b) An assessment of savings attributable to technically feasible programs for conservation and demand management, as determined by the utility. The programs must be ranked in a list according to the level of savings in energy or reduction in demand, or both.

(c) An assessment of technically feasible programs to determine which will produce benefits in peak demand or energy consumption. The utility shall estimate the cost of each such program. The methods used for the assessment must be stated in detail, specifically listing the data and assumptions considered in the assessment.

3. In creating its demand side plan, a utility shall consider the impact of applicable new technologies on current and future demand side options. The consideration of new technologies must include, without limitation, consideration of the potential impact of advances in digital technology and computer information systems.

4. A utility shall include in its demand side plan an energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel. The energy efficiency program must include, without limitation, the use of new solar thermal energy sources.

5. The demand side plan must provide a *descriptive* list of the programs for which the utility

is requesting the *acceptance* ~~[approval]~~ of the Commission. The list must include, without limitation:

(a) An estimate of the reduction in the peak demand and energy consumption that would result from each proposed program, in kilowatt-hours and kilowatts saved. The programs must be listed according to their expected savings and their contribution to a reduction in peak demand and energy consumption based upon realistic estimates of the penetration of the market and the average life of the programs.

(b) An assessment of the costs of each proposed program and the savings produced by the program. If the program can be relied upon to reduce peak demand on a firm basis, the assessment must include the savings in the costs of transmission and distribution.

(c) An assessment of the impact on the utility's load shapes of each proposed and existing program for conservation and demand management.

(d) If a program is an educational program, the projected expenses of the utility for the educational program.

(e) An estimated implementation and evaluation time-line for each proposed program.

(f) A budget, kilowatt hour reduction estimates, kilowatt hour savings estimates and Total Resource Cost Test results for each proposed program. If a program contains multiple energy conservation or demand side management components, budgets, kilowatt hour reduction estimates, kilowatt hour savings estimates and Total Resource Cost test results shall be provided for each component and for the entire proposed program.

(g) The formula used to calculate the Total Resource Cost cost/benefit ratio for each proposed program. Each cost and benefit category used in the formula shall be listed and defined. The analysis supporting each cost and benefit category shall be provided.

6. For any conservation or demand management program which reduces the consumption of electricity or any fossil fuel, a utility shall include in its demand side plan a complete life-cycle analysis of the costs and benefits of the program using the Total Resource Cost Test.

7. The utility shall include with its demand side plan a report on the status of all programs for conservation and demand management that have been *accepted* ~~[approved]~~ by the Commission. The report must include tables for each such program showing, for each year, the planned and achieved reduction in kilowatt-hours, the reduction in kilowatts and the cost of the program.

~~[8. On or before August 15 of each year following the filing of its resource plan, the utility shall file with the Commission a copy of the complete analysis that the utility used in determining for the upcoming year which conservation and demand management programs are to be continued and which programs are to be cancelled. The Commission will process this analysis in the same manner as an amendment filed pursuant to NAC 704.9503.]~~

9. As used in this section:

(a) “New solar thermal energy sources” means energy sources which are installed after the effective date of the utility’s energy efficiency program and which reduce the consumption of electricity or any fossil fuel by using solar radiation to heat water or to provide space heating or cooling.

(b) “Total Resource Cost Test” means a method of determining the overall economic efficiency of a demand management program from the perspective of society by measuring the net costs of the program based on its total costs, including, without limitation, the costs to both participants and the utility.

Section 6.

Annual Conservation and Demand Management Project Update Report

1. On or before August 15 of each year, the utility shall file with the Commission an annual conservation and demand management project update report. The Commission will process this report in the same manner as a resource plan amendment filed pursuant to NAC 704.9503.

2. The utility shall include the following in the annual conservation and demand management project update report:

a) A copy of the complete analysis the utility used to determine for the upcoming year which conservation and demand management programs are to be continued and which programs are to be cancelled.

b) A list of the latest accepted budgets for each conservation and demand management program included in the report;

c) A list of the proposed budgets for each conservation and demand management program to be continued for the following year and requests for acceptance of these budgets;

d) Summary tables for each program that provide the following information:

i) The accepted program budget versus program expenditures;

ii) A revised budget if applicable;

iii) The projected kilowatt and kilowatt hour savings versus the actual kilowatt and kilowatt hour savings;

iv) Program participation rates by market segment;

v) The accepted Total Resource Cost ratios and revised Total Resource Cost ratios; and

vi) *Conservation and demand management programs that consist of multiple components shall provide items i-v above for each program component and for the entire program;*

e) *For each conservation and demand management program accepted since the last triennial resource plan was filed, a status report indicating whether each conservation and demand management program's estimated implementation and evaluation time-line is on schedule. For each conservation and demand management program that is not on schedule, the utility shall provide an update to the estimated implementation and evaluation time-line.*

3. *Requests made in an annual conservation and demand management project update report application shall be limited to a utility's request for acceptance of the next year's conservation and demand management budgets.*

Section 7. NAC 704.9494 is hereby amended to read as follows:

NAC 704.9494 *Acceptance* ~~[Approval]~~ of action plan; determination that elements of energy supply plan are prudent; recovery of costs to carry out *accepted* ~~[approved]~~ plans.

1. The Commission will issue an order:

(a) *Accepting* ~~[Approving]~~ the action plan of the utility as filed; or

(b) If the plan is not *accepted* ~~[approved]~~ as filed, specifying those parts of the action plan the Commission considers inadequate.

2. *Acceptance* ~~[Approval]~~ by the Commission of an action plan constitutes a finding that the programs and projects contained in that action plan, other than the energy supply plan, are prudent, including, without limitation, construction of facilities, purchased power obligations, programs for conservation and demand management and impacts of imputed debt calculations associated with renewable energy contracts or energy efficiency contracts. If the Commission

subsequently determines that any information relied upon when issuing its order *accepting* ~~[approving]~~ the action plan was based upon information that was known or should have been known by the utility to be untrue or false at the time the information was presented, the Commission may revoke, rescind or otherwise modify its *acceptance* ~~[approval]~~ of the action plan.

3. If, at the time that the Commission *accepts* ~~[approves]~~ the action plan of the utility, the Commission determines that the elements of the energy supply plan are prudent, the Commission will specifically include in the *acceptance* ~~[approval]~~ of the action plan its determination that the elements contained in the energy supply plan are prudent. For the Commission to make a determination that the elements of the energy supply plan are prudent:

(a) The energy supply plan must not contain any feature or mechanism that the Commission finds would impair the restoration of the creditworthiness of the utility or would lead to a deterioration of the creditworthiness of the utility.

(b) The energy supply plan must optimize the value of the overall supply portfolio for the utility for the benefit of its bundled retail customers.

(c) The utility must demonstrate that the energy supply plan balances the objectives of minimizing the cost of supply, minimizing retail price volatility and maximizing the reliability of supply over the term of the plan.

↪ Failure by a utility to demonstrate that its energy supply plan is prudent in accordance with this subsection does not otherwise affect *acceptance* ~~[approval]~~ of the action plan, including the energy supply plan, and the utility may subsequently seek a determination that the energy supply plan is prudent in the appropriate deferred energy proceeding.

4. A utility may recover all *just and reasonable* costs that it prudently and reasonably incurs

in carrying out an *accepted* ~~[approved]~~ action plan in the appropriate separate rate proceeding. A utility may recover all *just and reasonable* costs that are prudently and reasonably incurred in carrying out the *accepted* ~~[approved]~~ energy supply plan, including deviations pursuant to subsection 1 of NAC 704.9504 *accepted* ~~[approved]~~ by the Commission in the appropriate deferred energy application filed pursuant to NAC 704.023 to 704.195, inclusive.

Section 8. NAC 704.9498 is hereby amended to read as follows:

NAC 704.9498 Report on progress of action plan: Filing; service; contents; form; hearing.

1. Not earlier than 15 months and not later than 21 months after the date on which the utility files its action plan, the utility shall file a report on the progress of its action plan with the Commission and serve a copy of the progress report on all parties of record. The progress report must include:

~~[(a) Information concerning the status of planned facilities approved by the Commission, including any cost or schedule variances;]~~

(a) A written summary of the progress made towards completion of each accepted project with a current schedule for completion of each project;

(b) Identification of any substantial changes in assumptions including without limitation, financial, environmental, regulatory, legal, and other assumptions used by the utility to support its original request for acceptance of a project or expenditure;

(c) For each accepted project, a comparison of the current budget to the accepted budget. The budget information for projects and expenditures shall be presented in a format that facilitates meaningful comparison of the current and accepted budgets.

(d) ~~[(b)]~~ Information concerning the status of all programs for conservation and demand management, including planned and achieved reductions in kilowatt-hours and reduction in

demand in kilowatt-hours;

~~[(c) A comparison of budgeted and actual costs for the entire action plan;]~~

(e) ~~[(d)]~~ An identification of and justification for any *substantial* ~~[significant]~~ deviation from the approved action plan, including *without limitation budget, schedule or* supporting information;

(f) ~~[(e)]~~ An updated forecast of energy consumption and peak demand; and

(g) ~~[(f)]~~ An updated table for loads and resources for the remaining years covered by the 20-year plan.

2. The progress report must be in the same form as the action plan and will be assigned a new docket number by the Commission.

3. The utility or any party of record *to the applicable resource plan or an applicable amendment to a resource plan* may request a hearing on the progress report, specifying in its request the reason the utility or party believes a hearing is required. *A request for hearing must be filed with the Commission within 30 days of the initial notice of report issued by the Commission.* Upon a finding of good cause, the Commission will order a hearing on the matter.

Section 9. NAC 704.9503 is hereby amended to read as follows:

NAC 704.9503 Monitoring and amendment of action plan.

1. A utility shall continually monitor its action plan and shall amend the plan before it submits its next action plan if any of the following circumstances exist:

(a) The utility anticipates submitting an application for a permit to construct a utility facility pursuant to NRS 704.820 to 704.900, inclusive, which was not previously *accepted* ~~[approved]~~ as part of the action plan.

(b) The utility makes a commitment for the acquisition or construction of a facility that was

not previously *accepted* ~~{approved}~~ as part of the action plan.

(c) The utility makes a commitment for a long-term purchased power obligation which was not previously *accepted* ~~{approved}~~ as part of the action plan.

(d) The utility is unable to place a resource in service or secure a resource in accordance with the schedule for the resource that is included in the action plan *accepted* ~~{approved}~~ by the Commission and the modified schedule results in a significant deviation from the planned reserve margin for any period in the 3-year action plan.

(e) The utility makes a commitment for an option that was not available at the time the action plan was *accepted* ~~{approved}~~.

(f) The basic data used in the formation of the plan requires *substantial* ~~{significant}~~ modification that affects the choice of a resource which was *accepted* ~~{approved}~~ as part of the action plan.

2. The conditions *or circumstances* under which an amendment is sought must be specifically set forth in the application for amendment *to an accepted action plan*.

Section 10. NAC 704.9504 is hereby amended to read as follows:

NAC 704.9504 Deviation from and amendment of energy supply plan.

1. Notwithstanding the *acceptance* ~~{approval}~~ by the Commission of the energy supply plan of a utility, the utility may deviate from the *accepted* ~~{approved}~~ energy supply plan to the extent necessary to respond adequately to any *substantial* ~~{significant}~~ change in circumstances not contemplated by the energy supply plan. A *substantial* ~~{significant}~~ change in circumstances includes, without limitation:

(a) A material change in the market price of fuel or purchased power;

(x) A material change in the availability of fuel or purchased power;

(b) An extended forced outage of a major generating unit of the utility;

(c) A material change in customer demand; and

(d) Any other circumstance that the utility demonstrates to the Commission warrants a deviation.

2. If a utility deviates from its *accepted* ~~[approved]~~ energy supply plan:

(a) The utility shall, as soon as practicable, inform the staff of the deviation from the energy supply plan.

(b) The utility shall include in the deferred energy application filed pursuant to NAC 704.023 to 704.195, inclusive, in which costs associated with the deviation are first sought to be recovered, a description of and justification for the deviation.

(c) The Commission will *retrospectively* determine ~~[on a retrospective factual basis]~~ the prudence of the deviation from the energy supply plan in the appropriate proceeding held on the deferred energy application.

(d) If the deviation from the energy supply plan is of a continuing nature, the utility shall seek authority from the Commission to deviate prospectively from the energy supply plan in an update of the energy supply plan filed pursuant to NAC 704.9506, or by filing an amendment to the energy supply plan in accordance with subsection 3.

3. An amendment to the energy supply plan of a utility must contain:

(a) A section that identifies the specific ~~[approvals]~~ requests ~~[ed]~~ by the utility in the amendment;

(b) A section that specifies any changes in assumptions or data that have occurred since the utility's last resource plan was filed; and

(c) As applicable, information required in subsections 1 to 5, inclusive, and 7 of NAC

704.9482.

Section 11. NAC 704.9512 is hereby amended to read as follows:

NAC 704.9512 Submission to Commission of certain purchased power obligations; disclosure of certain affiliate relationships.

1. The utility shall submit to the Commission a copy of:

(a) Each long-term purchased power obligation; and

(b) Any other purchased power obligation for which the utility is seeking the *acceptance*

~~[approval]~~ of the Commission,

↳ to which the utility is committed or plans to become committed during the period covered by the action plan.

2. For any such contract that is not executed at the time the action plan is filed, the utility shall submit the contract, upon execution, to the Commission for review. The utility shall, for each such contract, disclose the existence of any affiliate relationship between the parties.

Section 12. NAC 704.9516 is hereby amended to read as follows:

NAC 704.9516 Contents of amendment to action plan.

1. An amendment to an action plan submitted by a utility pursuant to NAC 704.9503 must contain:

(a) A section that identifies the items for which the utility is requesting specific *acceptance* ~~[approval]~~;

(b) A section that specifies any changes in assumptions or data that have occurred since the utility's last resource plan was filed;

(c) As applicable, information required in paragraphs (d) and (e) of subsection 1 of NAC 704.9489, and subsections 3 and 4 of NAC 704.9489;

(d) As applicable, data and information required pursuant to NAC 704.922 to 704.948, inclusive, necessary to facilitate an evaluation of the items specified pursuant to paragraph (a) for which the utility is requesting specific *acceptance* ~~[approval]~~;

(e) *The most recent forecast of peak demand*; ~~[A current peak demand forecast;]~~

(f) A table indicating the current loads and resources; and

(g) If the utility seeks an amendment related to a renewable energy contract or energy efficiency contract, information about the imputed debt mitigation.

2. For amendments submitted pursuant to paragraphs (a) and (f) of subsection 1 of NAC 704.9503, a utility shall file with the Commission the information required pursuant to paragraph (d) of subsection 1 of this section.

Section 13. NAC 704.9518 is hereby amended to read as follows:

NAC 704.9518 *Acceptance* ~~[Approval]~~ **of amendment to action plan or energy supply plan.**

For amendments filed pursuant to NAC 704.9503 and in accordance with subsection 3 of NAC 704.9504, the Commission will issue an order *accepting* ~~[approving]~~ the amendment as filed or specifying those parts of the amendment the Commission considers inadequate.

Section 14. NAC 704.9523 is hereby amended to read as follows:

NAC 704.9523 **Costs of implementing programs for conservation and demand**

management: Accounting; recovery.

1. All costs of implementing programs for conservation and demand management must be accounted for in the books and records of a utility separately from amounts attributable to any other activity. All accounts must be maintained in a manner that will allow costs attributable to specific programs to be readily identified.

2. Except as otherwise provided in subsection 4, a utility may, pursuant to subsection 3,

recover all prudent and reasonable costs incurred in implementing programs for conservation and demand management that have been *accepted* ~~[approved]~~ by the Commission as part of the action plan of the utility, including, without limitation, the costs for labor, overhead, materials, incentives paid to customers, advertising, marketing and evaluation. The utility may recover *accepted* ~~[approved]~~ costs associated with monitoring and evaluating these programs through a general rate case.

3. To recover costs incurred in implementing programs for conservation and demand management, a utility must:

(a) Calculate, on a monthly basis, the costs incurred in implementing each program since the end of the test period or period of certification in its last proceeding to change general rates.

(b) Record the cost of implementing each program, as calculated pursuant to paragraph (a), in a separate subaccount of Account 182.3 (Other Regulatory Assets) for each program and make an appropriate offset to other subaccounts.

(c) Maintain subsidiary records of the subaccounts of Account 182.3 for each program. These records must clearly delineate all costs incurred by the utility in implementing each program approved by the Commission.

(d) Apply a carrying charge at the rate of 1/12 of the authorized overall rate of return to the balance in the subaccounts of Account 182.3 for each program not included in the rate base.

(e) Clear any balance accumulated in the subaccounts of Account 182.3 for each program as a component of an application by the utility to change general rates as follows:

(1) The Commission will adjust the rate to amortize the balance over a 3-year period unless otherwise specified by the Commission.

(2) The utility must begin amortizing costs on the date that the change in general rates

becomes effective.

(3) The utility must include the balance in the subaccounts of Account 182.3 for each program, including carrying charges, in the rate base as of the date that ends the test period used in the utility's application to change general rates or as of the date that ends the period of certification, whichever is later.

(4) To calculate revenue requirements, the utility must base the rate of return to be applied to the balance in the subaccounts of Account 182.3 for each conservation or demand management program that the utility has carried out on the authorized return on equity plus 5 percent.

4. Costs incurred in implementing a dispatchable direct load control program must be recovered pursuant to subsection 3, except for the costs of incentives paid to customers which are treated as fuel and purchased power expense pursuant to NAC 704.023 to 704.195, inclusive.

5. As used in this section, "dispatchable direct load control program" means a program offered by a utility pursuant to which customers may agree to allow the utility remotely to interrupt or cycle electrical equipment and appliances, including, without limitation, air conditioners, water heaters and space heaters.