

Chapter 704 of NAC

LCB File No. T004-08

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

Filed with the Secretary of State on January 22, 2009.

Docket No. 07-06046—Phase II

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

Sec. 1 NAC 704.953 Definitions. As used in NAC 704.953 to ~~704.973~~ 704.____, *inclusive, sections 2 to 5, inclusive, of the regulations in LCB File No. R150-06, sections 2 to 13, inclusive, of Phase I of this regulation, and sections 2 to 8, inclusive, of Phase II of this regulation* unless the context otherwise requires, the words and terms defined in NAC ~~704.9535 to 704.9605~~, 704.054 to 704.____, *sections 2 to 4, inclusive, of the regulations in LCB File No. R150-06, sections 2 to 7, inclusive, of Phase I of this regulation, and sections 2 to 8 of Phase II of this regulation* ~~[inclusive.]~~ have the meanings ascribed to them in those sections.

Sec. 2 “Base Tariff General Rate” defined. *“Base Tariff General Rate” means the rates determined to collect all revenues except those collected in the Base Tariff Energy Rate as defined in NAC 704.032, the Deferred Energy Accounting Adjustment as defined in NAC 704.037, the adjustment to the BTGR to recover accumulated deferred interest as defined in NAC 704.217, and the General Revenues Adjustment as defined in NAC ____.*

Sec. 3 “General Revenues Decoupling Methodology” defined. *“General Revenue Decoupling Methodology” means the mechanism established pursuant to Section ____ to allow the gas utility to recover the Base Tariff General Rate revenues without regard to the difference in the quantity of natural gas actually sold.*

Sec. 4 “Customer class” defined. *“Customer class” means the customer class categories in the rate schedules under the gas utility’s Nevada tariff.*

Sec. 5 *“General Revenues” defined. “General revenues” means the revenues collected by the Base Tariff General Rate for the tracking period.*

Sec. 6 *“Tracking period” defined. “Tracking period” means the first full 12-month period following the implementation of the most recently authorized general rates, and each 12-month period thereafter.*

Sec. 7 *General Revenues Decoupling Request.*

1. *To remove financial disincentives that discourage a public utility which purchases natural gas for resale from planning and implementing substantive conservation and energy efficiency programs, a gas utility not electing to recover program costs using an equity adder methodology may seek Commission approval to decouple general revenues. A gas utility seeking Commission approval to decouple general revenues shall file its request with the Commission as part of a general rate application pursuant to NRS 704.110. A gas utility electing to decouple general revenues will recover the costs of the its substantive conservation and energy efficiency programs pursuant to section 14 of LCB File No. R095-08. If the gas utility files a request to decouple general revenues, the gas utility’s application shall include a discussion identifying any change in risk for the gas utility and a calculation to adjust for the change in risk and demonstrate the impact on the current and requested rate design for the gas utility.*

2. *As part of its general rate case application to implement general revenues decoupling, the gas utility shall outline its plan to educate the customers as to general revenues decoupling.*

3. *In its consideration of the general revenues decoupling methodology request the Commission shall seek to harmonize the incentives of general revenues decoupling methodology with the company’s rate design. Harmonization shall include without limitation the use of the information contained in the approved conservation and energy efficiency plan to modify the customer class billing determinants used to establish the Base Tariff General Rates in the general rate application filed pursuant to NRS 704.110 that includes the request to decouple general revenues. The gas utility must apply the approved general revenues decoupling methodology to all customer classes, excluding customers served under negotiated agreements.*

4. *The gas utility must have a Commission order accepting the conservation and energy efficiency plan with the acceptance occurring within one year prior to the gas utility filing its general revenue decoupling request. Execution of the plan will be deferred until such time as the general revenues decoupling methodology is implemented.*

5. *If a gas utility receives Commission approval for its requested methodology pursuant to this section, it may continue to use that methodology until its next general rate case. A gas utility's request to either continue or discontinue the methodology must be included in a general rate application filed pursuant to NRS 704.110.*

Sec. 8 General Revenues Decoupling Adjustment

1. *The gas utility authorized to use the general revenues decoupling methodology shall recover or refund its deferred general revenues by applying a per therm general revenues decoupling adjustment for each applicable customer class. The general revenues decoupling adjustment rate shall remain in effect until changed by the Commission.*

2. *The general revenues decoupling adjustment rate shall be adjusted annually in the Annual Conservation and Energy Efficiency Plan Report and Conservation and Energy Efficiency Plan file subsequent the implementation of the general revenue decoupling methodology.*

3. *The general revenues decoupling adjustment rate shall be calculated individually for each customer class, excluding customers served under negotiated agreements, and accounted for as follows:*

(a) A separate sub account to Account No. 182.3 shall be maintained for each customer class, excluding customers served under negotiated agreements, the balance of which will be used to calculate the general revenues decoupling adjustment.

(b) Annually the gas utility shall calculate the deferred general revenues. The deferred general revenues equals the difference between the general revenues on a per customer basis authorized in the general rate application wherein the decoupling request is approved or, if applicable, the subsequent change in general rate revenues approved by the Commission and the tracking period general revenues on a per customer basis. The general revenues per customer difference shall be multiplied by the tracking period number of customers.

(c) The net amount of deferred general revenues calculated pursuant to sub-paragraph (a) for the tracking period shall be recorded in a sub-account of Account No. 182.3 and included in the determination of the sub-account to Account No. 182.3 balance used to calculate the general revenues decoupling adjustment.

(d) Monthly, a credit entry or debit entry, if negative, for the amortization of the general revenues decoupling adjustment shall be recorded in the sub-account to Account 182.3. The amortization amount shall be equal to the amount of revenues derived by applying the general revenues decoupling adjustment(s) to the applicable customer class' jurisdictional sales.

(e) The balance in the sub-account to Account No. 182.3 at the end of the tracking period adjusted pursuant to sub-paragraph (c) shall be divided by the total sales for the tracking period.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. T004-08/PUCN Docket No. 07-06046**

The Public Utilities Commission of Nevada (“PUCN”) adopted temporary regulations assigned LCB File No. T004-08 which pertain to chapter 704 of the Nevada Administrative Code on November 20, 2008. A copy of the temporary regulations as adopted is attached.

INFORMATIONAL STATEMENT

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

Copies of the proposed regulations, notice of intent to act upon the regulation and notice of workshop and hearings were sent by U.S. mail and email to persons who were known to have an interest in the subjects of energy efficiency and conservation programs, demand side management programs, and other related utility matters for gas utilities. These documents were also made available at the website of the Public Utilities Commission of Nevada, <http://pucweb1.state.nv.us/PUCN/>, mailed to all county libraries in Nevada, published in the following newspapers:

Elko Daily Free Press
Las Vegas Review Journal
Nevada Appeal
Reno Gazette Journal
Tonopah Times-Bonanza

and posted at the following locations:

Public Utilities Commission
1150 East William Street
Carson City, Nevada 89701

Public Utilities Commission
101 Convention Center Drive, Suite 250
Las Vegas, Nevada 89109

First Judicial District Court
885 East Musser Street
Carson City, Nevada 89701

Second Judicial District Court
75 Court Street
Reno, Nevada 89501

Eighth Judicial District Court
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155

The public’s comments in this matter were submitted in writing and heard during the workshops and the hearings. The comments and discussions during the workshops and the hearings focused on: (1) methods of cost recovery for gas utilities; and (2) the removal of disincentives for gas utilities to encourage energy efficiency and conservation.

Copies of all documents filed in this matter, including this summary, are available at <http://pucweb1.state.nv.us/PUCN> on the PUCN's website or at the offices of the PUCN, at 1150 East William Street, Carson City, Nevada 89701 and 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

2. The number of persons who: (a) attended each hearing; (b) testified at each hearing; and (c) submitted to the agency written statement.

a. Attendees

- i. Workshop, September 21, 2007
 1. Attorney General's Bureau of Consumer Protection ("BCP")
 2. Sierra Pacific Power Company ("SPPC")
 3. Southwest Energy Efficiency Project ("SWEEP")
 4. Southwest Gas Company ("SWG")
 5. Regulatory Operations Staff of the Commission ("Staff")
- ii. Workshop, December 11, 2007
 1. BCP
 2. SPPC
 3. SWG
 4. Staff
- iii. Workshop, January 14, 2008
 1. BCP
 2. International Energy Conservation ("IEC")
 3. SPPC
 4. SWG
 5. Staff
- iv. Workshop, March 25, 2008
 1. BCP
 2. IEC
 3. SPPC
 4. SWEEP
 5. SWG
 6. Staff
- v. Workshop, October 2, 2008
 1. BCP
 2. IEC
 3. Natural Resources Defense Council
 4. SPPC
 5. SWEEP
 6. SWG
 7. Staff
- vi. Workshop, November 10, 2008
 1. BCP
 2. IEC
 3. SPPC

- 4. SWG
 - 5. Staff
 - vii. Hearing, November 12, 2008
 - 1. BCP
 - 2. IEC
 - 3. SPPC
 - 4. SWG
 - 5. Staff
- b. Testimony

No formal testimony was offered in this matter. The above noted attendees participated in the workshops and/or hearings.
- c. Written statements

On September 11, 2007, BCP, SPPC, SWEEP, SWG, and Staff filed comments.
 On September 18, 2007, BCP, SPPC, and SWG filed reply comments.
 On December 10, 2007, Staff filed two versions of proposed draft regulations on behalf of BCP, SPPC, SWG, and Staff.
 On February 26, 2008, SWEEP filed a brief.
 On February 29, 2008, BCP, SWG, and Staff filed briefs.
 On March 28, 2008, IEC filed comments.
 On April 11, 2008, BCP, SWG, and Staff filed comments.
 On September 24, 2008, SWEEP filed comments.
 On September 29, 2008, BCP, Natural Resource Defense Council, and SWG filed comments.
 On November 5, 2008, SWG and Staff filed comments.

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

Comments were solicited from affected businesses in the same manner as they were solicited from the public as outlined in response #1.

The SPPC and SWG submitted written comments and participated in the workshops and the hearings in this matter. In their comments SPPC and SWG raised their concerns regarding the appropriate cost recovery methodologies for their individual companies. SPPC and SWG also discussed the implementation of the methodologies in relation to conservation and energy efficiency program planning and general rate case filings.

Copies of all documents filed in this matter, including this summary, are available at www.puc.state.nv.us on the PUCN's website or at the offices of the PUCN, at 1150 East William Street, Carson City, Nevada 89701 and 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 regulation adopted on November 20, 2008, reflects changes from the original proposed regulation made during the workshops and/or hearings.

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

(a) Both adverse and beneficial effects;

The proposed regulations potentially affect those regulated utilities that purchase natural gas for resale. At this time, the PUCN cannot quantify either the adverse or beneficial economic effects on regulated utilities, either immediate or long-term, which may result from the proposed regulations.

At this time the PUCN cannot quantify either the adverse or beneficial economic effects on the public as a whole, either immediate or long-term, which may result from the proposed regulations.

(b) Both immediate and long-term effects.

See response to #5(a).

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

The PUCN believes there will be no significant additional or start-up costs to enforce or administer the new regulations.

7. A description of any regulation 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.

These regulations do not overlap or duplicate any federal, state, or local regulations.

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

These regulations do not overlap or duplicate any federal, state, or local regulations.

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.

These regulations do not establish any new fee or increase an existing fee.

10. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a

small business? What methods did the agency use in determining the impact of the regulation on a small business?

The PUCN determined that the regulation does not impose a direct and significant burden on small businesses or directly restrict the formation, operation or expansion of a small business in Nevada. In making this determination, the PUCN adopted the findings of the Staff. The methodology used by the PUCN and its Staff to determine the impact of proposed regulations on small businesses is called the Delphi Method. The Delphi Method is a systematic, interactive, forecasting method based on independent inputs of selected Staff experts who form a consensus opinion as to the likely impact of the regulation on small businesses and the public.

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Investigation and rulemaking to adopt, amend or repeal)
regulations pertaining to Chapters 703 and 704 of the)
Nevada Administrative Code regarding establishing) Docket No. 07-06046
methods and programs for a public utility which)
purchases natural gas for resale that remove financial)
disincentives which discourage the public utility from)
supporting energy conservation and other related utility)
matters in accordance with Senate Bill 437.)
_____)

At a general session of the Public Utilities
Commission of Nevada, held at its offices
on November 20, 2008.

PRESENT: Chairman Jo Ann P. Kelly
Commissioner Rebecca D. Wagner
Commissioner Sam A. Thompson
Commission Secretary Crystal Jackson

ORDER ADOPTING PROPOSED TEMPORARY REGULATIONS

The Public Utilities Commission of Nevada (“Commission”) makes the following
findings of fact and conclusions of law:

1. On June 6, 2007, the Commission opened an investigation and rulemaking to
adopt, amend, or repeal regulations pertaining to Chapters 703 and 704 of the Nevada
Administrative Code (“NAC”) regarding establishing methods and programs for a public utility
which purchases natural gas for resale that remove financial disincentives which discourage the
public utility from supporting energy conservation and other related utility matters in accordance
with Senate Bill 437. This matter was designated as Docket No. 07-06046.
2. This investigation and rulemaking was conducted pursuant to the Nevada Revised
Statutes (“NRS”) and NAC Chapters 233B, 703, and 704, including but not limited to, NRS
704.210.

3. On August 27, 2007, the Commission issued a public notice of this matter.
4. On September 11, 2007, Comments were filed by the Regulatory Operations Staff of the Commission (“Staff”), the Attorney General’s Bureau of Consumer Protection (“BCP”), Sierra Pacific Power Company (“SPPC”), Southwest Gas Company (“SWG”), and Southwest Energy Efficiency Project (“SWEEP”).
5. On September 18, 2007, BCP, SPPC, and SWG filed Reply Comments.
6. On September 21, 2007, a workshop was held. BCP, SPPC, SWEEP, SWG, and Staff attended the workshop.
7. On September 26, 2007, a prehearing conference was held. BCP, International Energy Conservation (“IEC”), SPPC, SWG, and Staff attended the prehearing conference.
8. On November 5, 2007, the Commission issued a Notice of Workshop.
9. On December 10, 2008, Staff filed two versions of proposed draft regulations on behalf of BCP, SPPC, SWG and Staff.
10. On December 11, 2007, a workshop was held. BCP, SPPC, SWG, and Staff attended the workshop.
11. On December 14, 2007, the Commission issued a Notice of Workshop.
12. On January 14, 2008, a workshop was held. BCP, IEC, SPPC, SWG, and Staff attended the workshop.
13. On January 16, 2008, the Commission issued a Notice of Workshop.
14. On January 25, 2008, the Presiding Officer issued a Procedural Order that requested all participants to file briefs regarding the linkage between decoupling and conservation and energy efficiency, including the legal and practical ramifications of not linking decoupling to conservation and energy efficiency. The Procedural Order also requested that

General Counsel review the briefs and present its recommendations regarding the linkage between decoupling and conservation and energy efficiency, including the legal and practical ramifications of not linking decoupling to conservation and energy efficiency, at an Agenda Meeting for the Commission's consideration. On February 26, 2008, SWEEP filed its brief in response to the Presiding Officer's Procedural Order. On February 29, 2008, BCP, Staff, and SWG each filed briefs in response to the Presiding Officer's Procedural Order

15. On March 13, 2008, General Counsel provided an overview on its recommendation on the linkage between decoupling and conservation and energy efficiency. No action was taken by the Commission regarding the overview.

16. On March 25, 2008, a workshop was held. BCP, IEC, SPPC, SWEEP, SWG, and Staff attended the workshop.

17. On March 28, 2008, IEC filed comments.

18. On April 11, 2008, BCP, Staff, and SWG filed comments.

19. On April 18, 2008, the Presiding Officer issued a Procedural Order which divided the proposed regulations and the associated workshop/hearing process into two phases: Phase I to pertain to the portion of the proposed regulations regarding methods and programs for a public utility which purchases natural gas for resale that remove financial disincentives which discourage the public utility from supporting energy conservation by a conservation and energy efficiency equity adder methodology; and Phase II to pertain to the remaining portion of the regulations regarding methods and programs for a public utility which purchases natural gas for resale that remove financial disincentives which discourage the public utility from supporting energy conservation by a conservation and energy efficiency decoupling methodology.

20. On September 3, 2008, the Commission adopted the proposed regulations in Phase I as Permanent Regulations. On September 29, 2008, the adopted Phase I regulations were filed with Secretary of State.

21. On August 26, 2008, the Commission issued a Notice of Intent to Act Upon a Regulation, Notice of Workshop, and Notice of Hearing on the proposed regulations in Phase II as temporary regulations.

22. On September 24, 2008, SWEEP filed comments on the proposed regulations in Phase II. On September 29, 2008, BCP, SWG and the Natural Resources Defense Council filed comments on the proposed regulations in Phase II.

23. On October 2, 2008, a workshop was held. BCP, IEC, Natural Resources Defense Council, SPPC, SWEEP, SWG, and Staff attended the workshop.

24. On October 10, 2008, the Commission issued a Notice of Workshop and Hearing.

25. On October 10, 2008, the Presiding Officer issued a Procedural Order directing Staff to analyze whether the proposed Phase II regulations impose a direct or significant economic burden upon small businesses and present their recommendations to the Commission for consideration on or before November 5, 2008.

26. On November 5, 2008, the Commission issued an Order finding that the proposed regulations do not impose a direct or significant economic burden upon small business.

27. On November 5, 2008, SWG and Staff filed comments on the proposed Phase II regulations.

28. On November 10, 2008, a 233B workshop was held in Phase II. BCP, IEC, SPPC, SWG, and Staff attended the workshop.

29. On November 12, 2008, a hearing was held in Phase II. BCP, IEC, SPPC, SWG, and Staff attended the hearing.

30. The Commission finds that it is in the public interest to adopt the proposed regulations, attached hereto and incorporated herein as Attachment 1, as temporary regulations.

THEREFORE, it is ORDERED that:

1. The proposed temporary regulations, attached hereto as Attachment 1, are ADOPTED AS TEMPORARY regulations pursuant to NRS 233B.063.

2. The Commission retains jurisdiction for the purpose of correcting any errors that may have occurred in the drafting or issuance of this Order.

By the Commission,

JO ANN P. KELLY, Chairman and
Presiding Officer

REBECCA D. WAGNER, Commissioner

SAM A. THOMPSON, Commissioner

Attest: _____
CRYSTAL JACKSON, Commission Secretary

Dated: Carson City, Nevada

(SEAL)