

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

LCB File No. R185-09

December 16, 2009

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

AUTHORITY: §§1-16, NRS 701B.590 and 703.025.

A REGULATION relating to renewable energy; providing definitions relating to the Wind Energy Systems Demonstration Program; providing procedures for applications to participate in the Program; revising incentives for participants in the Program; providing procedures for the payment of incentives for participants in the Program; revising requirements for the annual plan filed relating to the Program; providing requirements for wind energy systems used for the Program; and providing other matters properly relating thereto.

Section 1. Chapter 701B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *“Host customer” means either the utility customer of record at the location where the wind energy system will be located, or a person who has been designated by the utility customer of record in a letter to the utility explaining the relationship between that person and the utility customer of record.*

Sec. 3. *“System owner” means the owner of the generating equipment at the time an incentive is paid. In the case of a wind energy system owned by a third party, the third party is the system owner.*

Sec. 4. *For residential, small business, and agricultural properties:*

1. An application for the reservation of an incentive must be made using a form approved by the Commission and must include, without limitation:

(a) Signatures of the applicant, host customer and system owner, if different from the host customer;

(b) If the system owner is not the host customer, a copy of the executed agreement between the host customer and the system owner; and

(c) Any documentation required by the utility substantiating ownership of the equipment.

2. If an application is found to be incomplete or requires clarification, the utility shall request additional information. If the applicant has not submitted the requested information within 20 calendar days, the application will be cancelled, and the applicant may resubmit the application to the utility. The utility shall treat all resubmitted applications as new applications and process them in sequence with other new applications. Funds for an incentive are not reserved until the utility receives all information and documentation required for the application and the project is approved.

3. The utility shall review the application for completeness and determine eligibility. Once the utility approves the application, the utility shall issue a notice confirming that a specific incentive amount is reserved for the project. The wind energy system must be purchased, installed and put into operation by the expiration date listed on the notice. The notice must list:

(a) The specific reservation dollar amount;

(b) The approved kilowatt capacity of the project; and

(c) The expiration date.

4. The applicant must complete the installation of a wind energy system not later than 12 months after the applicant receives the notice pursuant to subsection 3 from the utility, unless the expiration date on the notice is sooner.

5. To claim the incentive, the applicant must submit a form approved by the Commission to the utility after the wind energy system is purchased, installed and put into operation. The form must include, without limitation:

(a) Signatures of the applicant, the host customer and the system owner, if different from the host customer;

(b) Any supporting documentation deemed necessary by the Commission; and

(c) Any documentation substantiating ownership of the equipment required by the utility.

Sec. 5. For school, public and other property:

1. An application for the reservation of an incentive must be made using a form approved by the Commission and must include, without limitation:

(a) Signatures of the applicant, host customer and system owner, if different from the host customer;

(b) If the system owner is not the host customer, a copy of the executed agreement between the host customer and the system owner; and

(c) Any documentation required by the utility substantiating ownership of the equipment.

2. Once the utility determines that an application is complete and that the applicant is eligible, the utility shall reserve funds allocated for the specified size of the wind energy system and send a notice to the applicant. The notice must list:

(a) The incentive amount that has been reserved for the project;

(b) The date by which the applicant must submit proof that the project is progressing and that there is a sustained commitment to complete the project within an approved timeline; and

(c) All documentation required to be submitted with the proof required in paragraph (b), including, without limitation:

- (1) A checklist approved by the Commission documenting the progress of the project;*
 - (2) If the system owner is not the host customer, a copy of the executed agreement between the host customer and the system owner; and*
 - (3) A copy of the request for proposal or other solicitation for the installation of the project.*
- 3. The reservation of funds in subsection 2 is only valid until the date for submission of proof of progress pursuant to paragraph (b) of subsection 2. Within 60 days after the notice, the applicant must submit a checklist approved by the Commission documenting the progress of the project and a copy of the request for proposal or other solicitation for the installation of the project.*
- 4. Within 180 days after submitting the documentation required by subsection 3, the applicant must provide the proof of progress required pursuant to paragraphs (b) and (c) of subsection 2. If the proof of progress is received before the required date but is found to be incomplete or requires clarification, the utility shall request additional information. If the applicant has not submitted the requested information within 20 calendar days, the application will be cancelled. Once the applicant has sufficiently demonstrated that the project is advancing, the utility shall issue a notice that the reservation has been confirmed.*
- 5. The applicant must complete the project not later than 12 months after the date that the initial notice was issued.*
- 6. To claim the incentive, the applicant must submit a form approved by the Commission to the utility after the wind energy system is purchased, installed and put into operation. The form must include, without limitation:*

(a) Signatures of the applicant, the host customer and the system owner, if different from the host customer;

(b) Any supporting documentation deemed necessary by the Commission; and

(c) Any documentation substantiating ownership of the equipment required by the utility.

Sec. 6. 1. *The utility shall offer to a host customer an incentive in the form of a rebate.*

Any retail distribution customer of a participating electric utility may apply for an incentive. A host customer or a system owner may apply for the incentive. The project site must be located in the service territory of the electric utility.

2. The incentive payment levels shall automatically be reduced over the duration of the Program in three tiers based on the total amount of kilowatts of confirmed reservations. The duration of each tier will depend on when the utility reaches a total amount of kilowatts of confirmed reservations specified by the Commission. The amount of the rebate per kilowatt of capacity paid at each tier shall be determined by the Commission in the utility's annual plan filing.

3. The utility shall calculate its progress toward meeting the total number of kilowatts of confirmed reservations for a given tier using the number of kilowatts proposed for a project in the application. Projects are included in the calculation of total kilowatts in a tier once they are deemed eligible and have been issued a confirmed reservation. When the total amount of kilowatts allocated through the confirmed reservations reaches the capacity listed within any particular tier, any subsequent kilowatts allocated by the utility will be at the next tier.

4. If there are any kilowatts that remain unused and unaccounted for in any previous tier, due to events such as applicants dropping out of the process or reducing the size of their wind energy systems, those kilowatts will be added to the current tier under which the utility is

issuing reservations and incentives. If kilowatts become unused in the current tier, those kilowatts will be returned to the current tier. Any reallocation of kilowatts from an earlier tier to a later tier due to drop-outs or wind energy system size reductions may take place as long as the kilowatts are reallocated within the same category of projects.

5. If a host customer installs a wind energy system that has greater kilowatt capacity than the amount of kilowatts in its confirmed reservation, the host customer shall receive the incentive level in its confirmed reservation for only the kilowatt capacity described in the confirmed reservation. Incentive dollars may be paid to the host customer for the excess kilowatt capacity at the tier level that would apply to new applications.

6. The utility shall provide updates to its website as close as possible to real time and no less than weekly to indicate the total kilowatts available for incentives at each tier and in each category, including any kilowatts newly available due to reallocations. The residential and non-residential customer categories may meet tier goals at different times due to different levels of participation.

Sec. 7. *1. Once a project is completed, the applicant may request payment of the incentive amount listed on the confirmed reservation. A project is considered completed when it is completely installed, interconnected, permitted, paid for, and capable of producing electricity in the manner and in the amounts for which it was designed.*

2. To receive the incentive, all Program requirements must be met and a complete claim form submitted before the expiration date listed for the project on its confirmed reservation.

3. If a claim form is incomplete or is found to require clarification, the utility shall request the information necessary to process that application further. If the applicant has not submitted the requested information after 20 calendar days, the request for payment may be

denied. If a claim form is not received by the expiration date for the project, or if the project is otherwise ineligible, the utility shall send a written notice stating the reasons the project is ineligible and the project will be rejected. If a project is rejected, the applicant or host customer may reapply for an incentive reservation but will be subject to the eligibility requirements, incentive levels and funding available at the time of reapplication.

Sec. 8. 1. *The host customer or system owner may withdraw from the Program for any reason by providing written notice of withdrawal to the utility.*

2. The host customer shall retain sole rights to the reservation, and may preserve the reservation by submitting a new application for a reservation along with the written notice of withdrawal from the Program to the utility. If all available funds are reserved for other projects, the host customer cannot increase the incentive amount in his original reservation.

3. For school property and public and other property, submitting a new application for a reservation does not change the date by which the proof required in paragraphs (b) and (c) of subsection 2 of section 5 of this regulation must be provided.

4. If the host customer does not resubmit an application for a reservation at the time of withdrawal from the Program, the original application will be terminated in its entirety and any previously reserved incentive funding will be released. The host customer may apply for a new incentive reservation should the host customer still wish to participate in the Program.

Sec. 9. *A participant who withdraws or does not complete the installation of his wind energy system within 12 months after the date on which the applicant is selected to participate in the program must reapply as a new applicant to be eligible for an incentive. The applicant must meet all program requirements that are in effect at the time of reapplication.*

Sec. 10. 1. *The host customer may act as the applicant or system owner, may designate the applicant or system owner to act on their behalf, and may change these parties at any time with prior written notice to the utility.*

2. The host customer shall be the holder of the incentive reservation, shall be a party to any agreement or contract with the utility, and shall retain sole rights to the incentive reservation.

3. If the host customer is not the system owner, then the system owner shall be a party to any agreement or contract with the utility.

Sec. 11. Section 3 of LCB File No. R174-07, which was adopted by the Public Utilities Commission of Nevada and was filed with the Secretary of State on April 17, 2008, is hereby amended to read as follows:

Sec. 3. As used in sections 3 to 24, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 4 to 17, inclusive, of this regulation *and sections 2 and 3 of LCB Draft of Proposed Regulation R185-09, as proposed by the Public Utilities Commission of Nevada* have the meanings ascribed to them in those sections.

Sec. 12. Section 18 of LCB File No. R174-07, which was adopted by the Public Utilities Commission of Nevada and was filed with the Secretary of State on April 17, 2008, is hereby amended to read as follows:

Sec. 18. 1. ~~For a program year, a utility shall offer to a participant the following incentives in the form of a rebate:~~

~~—(a) For school property and other public property:~~

~~—(1) For all of the watts up to and including the first 10 kilowatts of installed capacity of a wind energy system, the lesser of:~~

~~———— (I) The total dollar amount obtained by multiplying \$3 by the number of watts of installed capacity up to and including the first 10 kilowatts of installed capacity; or~~

~~———— (II) Sixty percent of the eligible installed system cost;~~

~~———— (2) For all of the watts over the first 10 kilowatts of installed capacity of a wind energy system, the lesser of:~~

~~———— (I) The total dollar amount obtained by multiplying \$2 by the number of watts of installed capacity above the first 10 kilowatts of installed capacity; or~~

~~———— (II) Thirty percent of the eligible installed system cost; and~~

~~———— (3) The total rebate must not exceed 60 percent of the eligible installed system cost; and~~

~~— (b) For private residential property, small business property and agricultural property:~~

~~———— (1) For all of the watts up to and including the first 10 kilowatts of installed capacity of a wind energy system, the lesser of:~~

~~———— (I) The total dollar amount obtained by multiplying \$2.50 by the number of watts of installed capacity up to and including the first 10 kilowatts of installed capacity; or~~

~~———— (II) Sixty percent of the eligible installed system cost;~~

~~———— (2) For all of the watts over the first 10 kilowatts of installed capacity of a wind energy system, the lesser of:~~

~~———— (I) The total dollar amount obtained by multiplying \$1.50 by the number of watts of installed capacity above the first 10 kilowatts of installed capacity; or~~

~~———— (II) Thirty percent of the eligible installed system cost; and~~

~~———— (3) The total rebate must not exceed 60 percent of the eligible installed system cost.~~

~~—2.] *The installed capacity goals by category to be installed by 2012 are:*~~

~~(a) *Residential property and small business property – 750 kilowatts;*~~

(b) School property – 750 kilowatts;

(c) Public property and other property – 1,500 kilowatts; and

(d) Agricultural property – 2,000 kilowatts.

2. All of the capacity for each category is available from the date of enactment of sections 1 through 16, inclusive, of LCB Draft of Proposed Regulation R185-09, as proposed by the Public Utilities Commission of Nevada, until 2012.

3. The utility shall deploy educational, marketing and promotional efforts directed to meet the goals set in subsection 1.

4. The capacity goals set forth in subsection 1 may be reallocated from an undersubscribed category to an oversubscribed category subject to compliance with the reallocation process approved in the annual plan.

~~*5. If the incentives for a participant's first program year change between the time his application is approved and the time his wind energy system is completed, the*~~ *The* participant must receive for ~~*that*~~ *the participant's first* program year the incentives established at the time that his application was approved ~~*if*~~ *if*:

(a) The incentives for a participant's first program year change between the time his application is approved and the time his wind energy system is completed; and

(b) The participant completes installation of his wind energy system within 12 months after the date on which the applicant is selected for participation in the Program.

Sec. 13. Section 19 of LCB File No. R174-07, which was adopted by the Public Utilities Commission of Nevada and was filed with the Secretary of State on April 17, 2008, is hereby amended to read as follows:

Sec. 19. Pursuant to NRS 701B.610, a utility shall file with the Commission an annual plan which must include the following:

1. A schedule describing major program milestones;
2. A budget with the following categories:
 - (a) Incentives;
 - (b) Contractor costs;
 - (c) Marketing costs;
 - (d) Training costs; and
 - (e) Utility administrative costs;
3. *A table providing proposed incentive levels for the upcoming program year and all subsequent program years with calculations, supporting data and justifications for the proposed incentives, which must decline as capacity goals for the Program and goals for each category are met and must reflect predicted energy savings;*
4. A report on previous program years and the current program year which includes, without limitation, the most up-to-date versions of the following information for each program year:
 - (a) The number of applications filed in each program category;
 - (b) The number of participants enrolled in the Program and the number who have dropped out of the Program;
 - (c) The annual budget and expenditures;
 - (d) Any remaining financial obligations at the end of a program year;
 - (e) A list of completed installations;
 - (f) A summary of marketing results;
 - (g) A description of training and educational activities; and

(h) The results of participant surveys;

~~[4.]~~ 5. A description of the application process, including, without limitation:

(a) The procedures to be followed by the utility and the applicant;

(b) The criteria for the selection of applicants for the Program, for the selection of applicants for the prioritized waiting list and for the promotion of applicants from the prioritized waiting list to the Program;

(c) Copies of proposed applications and forms; *and*

~~(d) [A schedule for the application process with estimated dates for when the utility will forward recommendations for approval by the Task Force; and~~

~~—(e) A template for a recommendation document containing the list of applications proposed for approval for the Program and for the prioritized waiting list;~~

~~—5.] *The procedures for a participant to claim the incentive at completion of the project and a copy of the required claim form, which must include, at a minimum, the following data and attachments:*~~

~~(1) *Name and address of the participant;*~~

~~(2) *Address at which the renewable energy system is located;*~~

~~(3) *The technical description of the main components of the system if different from the application;*~~

~~(4) *An assignment of the incentive payment, if applicable;*~~

~~(5) *Building permit signed off by governing jurisdiction to ensure that the system complies with all local codes;*~~

~~(6) *Voltage verification form to ensure that the meter socket is ready for meter set;*~~

(7) Invoice for the renewable energy system to ensure that a properly licensed contractor performed the required work and that the system equipment is new and has not been previously installed;

(8) Net metering agreement if not previously provided; and

(9) Schools and public facility public display verification statement if applicable;

6. The total of all incentives proposed to be paid for the program year;

~~{6.}~~ 7. A detailed advertising plan;

~~{7.}~~ 8. An education and training plan;

~~{8.}~~ 9. An inspection and verification plan for wind energy systems which verifies that an applicant or participant meets all applicable requirements;

~~{9.}~~ 10. The conditions and requirements which must be met to allow the utility to ~~request and the Task Force to approve the reallocation of~~ *reallocate* unsubscribed capacity from one category to another category in a program year; and

~~{10.}~~ 11. A survey for participants which includes, without limitation, questions on:

(a) The operational effectiveness of the participant's wind energy system, including, without limitation, the total kilowatt-hours of electricity generated per program year;

(b) Environmental issues, including, without limitation, the number of birds killed in relation to the wind energy system, the noise produced by the system and any other aesthetic issues related to the system; and

(c) Any other information regarding the effectiveness of the Program.

Sec. 14. Section 20 of LCB File No. R174-07, which was adopted by the Public Utilities Commission of Nevada and was filed with the Secretary of State on April 17, 2008, is hereby amended to read as follows:

Sec. 20. ~~{1}~~ For all program categories:

~~{(a)}~~ 1. A wind energy system must be located on property within the Nevada service territory of a participating utility; and

~~{(b)}~~ 2. An applicant must prove that his wind energy system has never been previously installed at another location.

~~[2. For the private residential property, small business property or agricultural property category, the wind energy system must be on property owned by the participant.]~~

Sec. 15. Section 23 of LCB File No. R174-07, which was adopted by the Public Utilities Commission of Nevada and was filed with the Secretary of State on April 17, 2008, is hereby amended to read as follows:

Sec. 23. 1. A utility shall include with its annual deferred energy accounting adjustment application filed pursuant to subsection 9 of NRS 704.110 a revised Wind Demonstration Program rate. The rate must be calculated by adding the following two components:

(a) A prospective rate determined by dividing *not more than* the total costs in the Wind Demonstration Program annual plan by the projected kilowatt-hours for the program year; and

(b) A clearing rate determined by dividing the cumulative balance in the Wind Demonstration Program subaccount of FERC Account No. 182.3 at the end of the deferred energy test period as defined in NAC 704.063 by the test period kilowatt-hour sales.

2. The Commission will allow recovery of all prudent Wind Demonstration Program costs included in the subaccount of FERC Account 182.3 at the end of the test period as defined in NAC 704.063 and adjust the Wind Demonstration Program rate accordingly.

Sec. 16. Sections 13 and 21 of LCB File No. R174-07, which was adopted by the Public Utilities Commission of Nevada and was filed with the Secretary of State on April 17, 2008, are hereby repealed.

TEXT OF REPEALED SECTIONS

Section 13 of LCB File No. R174-07:

Sec. 13. “Task Force” has the meaning ascribed to it in NRS 701B.530.

Section 21 of LCB File No. R174-07:

Sec. 21. The master application which a utility must submit to the Task Force must include the following:

1. The annual plan for the applicable program year, as modified and approved by the Commission;
2. The completed application for each applicant;
3. A list of the applications recommended for approval, indicating which are existing applications recommended for promotion from a previous prioritized waiting list and which are new applications;
4. A prioritized waiting list; and
5. A tabulation by program category for the program year showing the:

- (a) Total capacity allowed for each category;
- (b) Total capacity previously approved for each category;
- (c) Total capacity recommended by the utility for approval for each category;
- (d) Total capacity represented by the waiting list for each category; and
- (e) Balance of capacity not yet committed.