

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

**LCB File No. R186-09**

Effective April 20, 2010

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

AUTHORITY: §§1-16, NRS 701B.840, as amended by section 8 of Senate Bill No. 358, chapter 321, Statutes of Nevada 2009, at page 1388, and NRS 703.025.

A REGULATION relating to renewable energy; providing definitions relating to the Waterpower 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 waterpower 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 a waterpower 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. If a waterpower energy system is owned by a third party, the third party is the system owner.*

**Sec. 4.** *For all categories of 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, the host customer and the 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;*

*(c) A computation stamped by a professional engineer licensed in this State that provides the estimated hours of operation of the waterpower energy system and the estimated annual kilowatt-hour output of the proposed waterpower energy system; and*

*(d) Any documentation required by the utility which substantiates ownership of the equipment.*

*2. The utility shall provide on its Internet website, adjacent to the application forms, a best practices guide to selecting a contractor and other consumer resources, including, but not limited to, the current contact information for the State Contractors' Board.*

*3. 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 after receipt of the request, the application will be cancelled, and the applicant may resubmit an application to the utility. The utility shall treat all resubmitted applications as new applications and process them in sequence with other new applications. Money for an incentive is not reserved until the utility receives all information and documentation required for the application and the project is approved.*

*4. The utility shall, within 30 days after receipt of an application, 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 waterpower energy system must be purchased, installed and capable of producing electricity on or before the expiration date listed on the notice. The notice must list:*

- (a) The incentive amount that has been reserved for the project;*
- (b) The approved kilowatt capacity of the project; and*
- (c) An expiration date for the reservation, which must be 12 months after the date of the*

*issuance of the notice.*

*5. The applicant must complete the installation of a waterpower energy system not later than the expiration date listed on the notice issued pursuant to subsection 4.*

*6. To claim the incentive, the applicant must submit a form approved by the Commission to the utility after the waterpower energy system is purchased, installed and capable of producing electricity. 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. 1.** *The utility shall offer to a host customer an incentive in the form of a rebate. Any retail distribution customer of a participating 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 utility.*

*2. The incentive payment levels must automatically be reduced over the duration of the Program in three tiers based on the total number of kilowatts of confirmed reservations. The duration of each tier will depend on when the utility reaches a total number of kilowatts of*

*confirmed reservations specified by the Commission. The amount of the rebate per kilowatt of capacity paid at each tier will 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 number 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 waterpower 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 dropouts or size reductions of a waterpower energy system may take place as long as the kilowatts are reallocated within the same category of projects unless the Commission approves an alternate allocation process.*

*5. If a host customer installs a waterpower energy system that has greater kilowatt capacity than the amount of kilowatts in its confirmed reservation, the host customer must receive the incentive level in its confirmed reservation for only the kilowatt capacity described in the confirmed reservation.*

6. *The utility shall provide updates to its Internet website, as close as possible to real time and not less often 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.*

7. *Portfolio energy credits must be assigned pursuant to NRS 701B.870 and 704.775.*

**Sec. 6.** 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 requirements of the Program must be met and a complete claim form submitted by 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 within 20 calendar days after receipt of the request, 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 to the applicant stating the reasons why the project is ineligible and that the project is rejected. If a project is rejected, the applicant or host customer may reapply for the reservation of an incentive but will be subject to the eligibility requirements, incentive levels and funding available at the time of reapplication.*

**Sec. 7.** 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 retains sole rights to the reservation for 30 days after submitting notice of withdrawal and may preserve the reservation beyond 30 days by submitting a revised*

*application for a reservation to the utility before the expiration of the 30 days. The host customer may not increase the incentive amount in his original reservation.*

*3. If the host customer does not resubmit an application for a reservation within 30 days after withdrawal from the Program, the original application will be terminated in its entirety and any previously reserved incentive money will be released. The host customer may apply for a new reservation of an incentive if the host customer still wishes to participate in the Program.*

*Sec. 8. A participant who withdraws or who does not complete the installation of his waterpower 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 requirements of the Program that are in effect at the time of reapplication.*

*Sec. 9. In reviewing an application, a utility shall verify that any contractor involved in the installation of a waterpower energy system has an active license with the State Contractors' Board. If the utility determines that a contractor's license was suspended during the application process:*

- 1. Reservations associated with the contractor will not be confirmed;*
- 2. Applications associated with the contractor will be suspended;*
- 3. No incentive payments will be made for waterpower energy systems associated with the contractor except for waterpower energy systems which were interconnected before the suspension of the contractor's license;*
- 4. The utility shall notify each party identified on the application of the suspension; and*

*5. If the waterpower energy system has not been installed, the host customer may hire a new contractor without losing the current reservation of an incentive.*

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

*2. The host customer is the holder of the reservation of an incentive, must be a party to any agreement or contract with the utility and retains sole rights to the reservation except as otherwise provided in subsections 2 and 3 of section 7 of this regulation.*

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

**Sec. 11.** Section 3 of LCB File No. R173-07, 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 20, inclusive, of this regulation, *and sections 2 to 10, inclusive, of LCB File No. R186-09*, unless the context otherwise requires, the words and terms defined in sections 4 to 13, inclusive, of this regulation *and sections 2 and 3 of LCB File No. R186-09* have the meanings ascribed to them in those sections.

**Sec. 12.** Section 14 of LCB File No. R173-07, 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. 14. 1. ~~For a program year, a utility shall offer to a participant an incentive in the form of a rebate. For all of the watts up to and including the first 50 kilowatts of installed capacity of a waterpower energy system, the utility shall offer the lesser of:~~

~~—(a) The total dollar amount obtained by multiplying \$2.50 by the number of watts calculated pursuant to subsection 2; or~~

~~—(b) Sixty percent of the eligible installed system cost.] All 500 kilowatts of capacity to be installed by 2012 are available for reservation by a participant from the effective date of this regulation until December 31, 2011, inclusive. Any applicant who files a complete application on or before December 1, 2011, and who receives a confirmed reservation notice on or before December 31, 2011, will have 12 months to complete his project. The incentive award available for any application must be limited to the first 200 kilowatts of installed capacity.~~

2. ~~[The applicant must provide to the utility, within 30 days after applying for participation in the Waterpower Demonstration Program, a computation stamped by an engineer who is a licensed professional engineer in the State of Nevada that provides the estimated hours of operation of the waterpower energy system and the estimated annual kilowatt hour output of the proposed system. The estimated kilowatt hour output must be divided by the greater of 1752 hours or the estimated hours of operation to calculate the number of watts for the purposes of paragraph (a) of subsection 1.~~

~~—3.]~~ If the incentives for a participant's first program year change between the time his application is approved and the time his waterpower energy system is completed, the participant must receive for that program year the incentives established at the time that his application was approved.

**Sec. 13.** Section 15 of LCB File No. R173-07, 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. 15. **1.** Pursuant to NRS 701B.850, a utility shall file with the Commission an annual plan which must include the following:

~~1.1~~ **(a)** A schedule describing major program milestones;

~~1.2~~ **(b)** A budget with the following categories:

~~1.2(a)~~ **(1)** Incentives;

~~1.2(b)~~ **(2)** Contractor costs;

~~1.2(c)~~ **(3)** Marketing costs;

~~1.2(d)~~ **(4)** Training costs; and

~~1.2(e)~~ **(5)** Utility administrative costs;

~~1.3~~ **(c)** *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;*

**(d)** 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:

~~1.4(a)~~ **(1)** The number of applications filed;

~~1.4(b)~~ **(2)** The number of participants enrolled in the Waterpower Demonstration Program and the number who have dropped out of the Waterpower Demonstration Program;

~~1.4(c)~~ **(3)** The annual budget and expenditures;

~~1.4(d)~~ **(4)** Any remaining financial obligations at the end of a program year;

~~1.4(e)~~ **(5)** A list of completed installations;

- ~~[(f)]~~ (6) A summary of marketing ~~results;~~  
~~—(g)] efforts;~~
- (7) A description of training and educational activities; and
- ~~[(h)]~~ (8) The results of participant surveys;
- ~~[4.]~~ (e) A description of the application process, including, without limitation:
- ~~[(a)]~~ (1) The procedures to be followed by the utility and the applicant;
- ~~[(b)]~~ (2) The criteria for selection of applicants for the Waterpower Demonstration Program, for the selection of applicants for the prioritized waiting list and for the promotion of applicants from the prioritized waiting list to the Waterpower Demonstration Program;
- ~~[(c)]~~ (3) 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 Waterpower Demonstration Program and for the prioritized waiting list;]~~
- (4) 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:*
- (I) The name and address of the participant;*
- (II) The address at which the waterpower energy system is located;*
- (III) The technical description of the main components of the waterpower energy system, if different from the application;*

- (IV) An assignment of the incentive payment, if applicable;*
- (V) A building permit approved and signed by the applicable governing jurisdiction to ensure that the waterpower energy system complies with all local codes;*
- (VI) A voltage verification form to ensure that the meter socket is ready for meter set;*
- (VII) An invoice for the waterpower energy system to ensure that a properly licensed contractor performed the required work and that the waterpower energy system equipment is new and has not been previously installed; and*
- (VIII) Either the participant's net metering agreement with the utility if not previously provided or the participant's agreement to sell the output of the waterpower energy system to the utility pursuant to the utility's Short-Term Avoided Cost Tariff;*
- ~~5.1~~ *(f)* The total of all incentives proposed to be paid for the program year;
- ~~6.1~~ *(g)* A detailed advertising plan;
- ~~7.1~~ *(h)* An education and training plan;
- ~~8.1~~ *(i)* An inspection and verification plan for waterpower energy systems which verifies that an applicant or participant meets all applicable requirements; ~~and~~
- ~~9.1~~ *(j)* A survey for participants which includes, without limitation, questions on:
- ~~(a)~~ *(1)* The operational effectiveness of the participant's waterpower energy system, including, without limitation, the total kilowatt-hours of electricity generated per program year; and
- ~~(b)~~ *(2)* Any other information regarding the effectiveness of the Waterpower Demonstration Program ~~[.]; and~~

*(k) Information for use in establishing incentive levels regarding predicted energy savings and the promotion of economic equity between those participants using net metering and those participants selling electricity pursuant to the utility's Short-Term Avoided Cost Tariff. For the purpose of setting a rebate for participants who sell the output of the waterpower energy system to the utility pursuant to the utility's Short-Term Avoided Cost Tariff, the expected value of payments pursuant to the tariff shall be considered energy savings which shall be compared to the expected direct savings associated with a net metering arrangement, taking into consideration the difference in the nature of the two arrangements. Any capacity limitations relating to participants who choose either arrangement must be established in the utility's annual plan.*

*2. As used in this section, "Short-Term Avoided Cost Tariff" means:*

*(a) For Sierra Pacific Power Company, Schedule No. CSPP, Short-Term Rates, Cogeneration and Small Power Production.*

*(b) For Nevada Power Company, Schedule QF - Short Term, Cogeneration and Small Power Production - Qualifying Facilities.*

**Sec. 14.** Section 16 of LCB File No. R173-07, 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. 16. 1. A waterpower energy system must be located on property within the Nevada service territory of a participating utility.

2. An applicant must prove that his waterpower energy system has never been previously installed at another location.

~~{3. The waterpower energy system must be on property owned by the participant.}~~

**Sec. 15.** Section 19 of LCB File No. R173-07, 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. 1. A utility shall include with its annual deferred energy accounting adjustment application filed pursuant to subsection 9 of NRS 704.110 a revised Waterpower 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 Waterpower 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 Waterpower 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 Waterpower 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 Waterpower Demonstration Program rate accordingly.

**Sec. 16.** Sections 8 and 17 of LCB File No. R173-07, 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 8 of LCB File No. R173-07:**

Sec. 8. “Task Force” has the meaning ascribed to it in NRS 701B.770.

**Section 17 of LCB File No. R173-07:**

Sec. 17. 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; and
4. A prioritized waiting list.

## NOTICE OF ADOPTION OF REGULATION

The Public Utilities Commission adopted regulations assigned LCB File Nos. R184-09, R185-09, and R186-09 (Docket No. 09-07014) which pertain to chapter 701B of the Nevada Administrative Code on January 27, 2010. A copy of the regulations as adopted is attached.

### LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY NRS 233B.066 LCB FILE NOS. R184-09, R185-09, and R186-09 (DOCKET NO. 09-07014)

The following informational statement is submitted for adopted amendments to Nevada Administrative Code Chapter 704.

**1. A description of how public comment was solicited, a summary of public response, and explanation of 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 hearing were sent by U.S. mail and email to persons who were known to have an interest in prescribing the form and substance of a standard net metering contract and tariff. These documents were also made available at the website of the Public Utilities Commission (“PUC”), <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, NV 89701

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

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

Second Judicial District Court  
75 Court Street  
Reno, NV 89501

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

Participants discussed procedures for utility customers to apply to participate in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program, and the

Waterpower Energy Systems Demonstration Program. Topics included but were not limited to stages of the application process, information that the utility shall provide to the Commission in its annual plan filing, ways in which to curtail abuse of the incentives, requirements for contractors installing renewable energy systems, appropriate incentive levels to reach installed capacity goals, and disposition of portfolio energy credits.

Transcripts of the proceedings are available for review at the office of the PUC, 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:** January 21, 2010 - 7
  - (b) **testified at each hearing:** January 21, 2010 - 7
  - (c) **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 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.

The summary may be obtained as instructed in the response to question #1.

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 permanent regulations were adopted on January 27, 2010.

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;**
  - (b) **Both immediate and long-term effects;**

(a) Both adverse and beneficial effects:

No adverse effects of the proposed regulations on small businesses are anticipated. Small businesses will continue to pay a portion of their rates, as do all ratepayers, for costs associated with renewable energy programs.

(b) Both immediate and long-term effects:

See Item #5(a).

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

There is no additional cost to the agency for enforcement of these 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.**

N/A

**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.**

N/A

**10. If the proposed regulation is 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 PUC determined that the proposed regulations do not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business. In making this determination, the PUC adopted the findings of the Regulatory Operations Staff, which conducted a Delphi Method exercise to determine the impacts. The Delphi Method is a systematic, interactive, forecasting method based on independent inputs of selected experts.