

ASSEMBLY BILL NO. 1—COMMITTEE OF THE WHOLE

PREFILED SEPTEMBER 9, 2014

Referred to Committee of the Whole

SUMMARY—Revises provisions governing the Economic Development Electric Rate Rider Program. (BDR 58-9)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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

AN ACT relating to commerce; extending the duration of the Economic Development Electric Rate Rider Program; requiring the Office of Economic Development to make certain determinations before approving an application for participation in the Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Economic Development Electric Rate Rider Program to encourage the location or relocation of new businesses in this State by providing discounted rates for electricity to eligible participants. (NRS 704.7871-704.7882) Applications to participate in the Program cannot be approved after December 31, 2017, or the date on which the capacity set aside for allocation pursuant to the program is fully allocated, whichever occurs first. (NRS 704.788) Existing law establishes the criteria for eligibility for participation in the Program and for the approval of an application by the Office of Economic Development based upon satisfying the criteria for eligibility. (NRS 704.7876) **Section 1** of this bill additionally requires the Office of Economic Development to determine that approval is in the best interests of the State before granting an initial approval.

Under existing law, once the Office of Economic Development grants initial approval to participate in the Program, the Office sends notice of such approval to the applicant and forwards a copy of the application and letter of eligibility to the Public Utility Commission of Nevada. (NRS 704.7876) The Commission is required to review the application, establish the rates to be charged to the applicant by the electric utility that will serve the load of the applicant and establish certain terms to be included in the contract between the applicant and the electric utility. The electric utility is required to prepare the contract and submit it to the Commission for approval. Once approved, the electric utility and the applicant are allowed to enter into the contract and the applicant is authorized to participate in the Program. (NRS 704.7877) **Section 2** of this bill extends the required term of



such a contract from 5 years to 10 years and extends the term of the discounts applicable under the Program from 4 to 8 years.

Existing law requires the Public Utilities Commission of Nevada to adopt regulations to establish the discounted rates that are allowed to be charged by an electric utility pursuant to the Program. Existing law further provides the maximum amount by which the electric utility rates may be reduced for each year in which discounts are allowed under a contract executed to participate in the Program. Under existing law, the applicant is required to pay the full rate for electric utilities without a discount during the last year of participation in the Program. (NRS 704.7881) **Section 3** of this bill revises those provisions to account for the extension of the term of the discounts applicable under the Program as provided in **section 2**. Therefore, **section 3** provides the maximum amount by which the electric utility rates may be reduced for 8 years rather than 4 years. The applicant will be required to pay full electric utility rates without any reduction for the last 2 years of participation in the Program.

Section 4 of this bill extends the provisions relating to the Program so that instead of terminating on June 30, 2018, the provisions continue until the termination of the last contract entered into under the Program. **Section 5** of this bill specifies that existing contracts are not affected by this bill, therefore making the provisions relating to the Program apply prospectively only.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 704.7876 is hereby amended to read as follows:

704.7876 1. A person who, in anticipation of the incentive provided pursuant to the Program, locates or intends to locate a new commercial or industrial business in this State may apply to the Office of Economic Development to participate in the Program.

2. An application to participate in the Program must be submitted on a form approved by the Office of Economic Development and must include:

(a) The name, business address and telephone number of the applicant;

(b) The location or proposed location of the applicant's facility and a detailed description of the facility;

(c) Proof satisfactory to the Office of Economic Development that the applicant satisfies the criteria for eligibility set forth in subsection 3;

(d) An attestation, on a form approved by the Office of Economic Development, that but for the incentive provided pursuant to the Program, the applicant would not have located or intended to locate the business in this State; and

(e) Any other information required by the Office of Economic Development.

3. To be eligible for participation in the Program, an applicant must demonstrate that:



(a) The applicant is or intends to be a new commercial or industrial customer of an electric utility in this State;

(b) The applicant is not, and has not been during the immediately preceding 12 months, a customer of any other electric utility in this State;

(c) The new load to be served by the electric utility is more than 300 kilowatts;

(d) The electric utility has determined that the applicant's use of the load is not for a project, purpose or facility which carries an abnormal risk or is seasonal, intermittent or temporary; and

(e) The applicant has applied for each economic incentive, including, without limitation, any abatement or partial abatement of taxes, offered by the State or any local government for which the applicant is eligible.

4. Upon the receipt of a completed application, the Office of Economic Development shall consider the application and make a determination of whether the applicant satisfies the criteria for eligibility. If the Office of Economic Development determines that the applicant satisfies the criteria for eligibility, the Office of Economic Development may give initial approval to the applicant ***if the approval, as determined by the Office of Economic Development, is in the best interests of the State.***

5. If the Office of Economic Development gives initial approval to an applicant, the Office of Economic Development shall:

(a) Provide notice of the initial approval to the applicant;

(b) Issue to the applicant a letter of eligibility; and

(c) Forward a copy of the applicant's application and letter of eligibility to the Commission.

Sec. 2. NRS 704.7877 is hereby amended to read as follows:

704.7877 1. Upon receipt of an application and letter of eligibility pursuant to paragraph (c) of subsection 5 of NRS 704.7876, the Commission shall:

(a) Review the application;

(b) Establish the rates which may be charged to the applicant by the electric utility that will serve the load of the applicant; and

(c) In addition to the terms required by subsection 3, establish any additional terms which must be included in the contract between the applicant and the electric utility.

2. Before any applicant enters into a contract with an electric utility pursuant to the Program, the applicant shall:

(a) Provide to the electric utility that will serve the load of the applicant access to the applicant's facility or plans for the facility for the purpose of the electric utility making recommendations concerning the energy efficiency of the facility; and



(b) Provide proof satisfactory to the Commission that the new load under the contract will have an annual load factor of 50 percent or more for each year of the term of the contract.

3. An applicant may participate in the Program pursuant to a contract which is entered into by the applicant and the electric utility that will serve the load of the applicant and which is approved by the Commission. A contract entered into pursuant to this section must include provisions setting forth:

(a) The term of the contract, which must be ~~5~~ 10 years;

(b) The term of the discounts applicable under the Program, which must be ~~4~~ 8 years;

(c) The rates to be paid for electricity by the participant;

(d) That the discount approved by the Commission does not apply to up-front costs, the base tariff general rate, any otherwise applicable tariff or any taxes, surcharges, amortization or program rate elements;

(e) The deposit requirements, which must be based on the rates applicable under the second year of the contract;

(f) That the participant ceases to be eligible for any discounted rates for electricity if the participant fails to satisfy any requirements set forth in the contract or NRS 704.7871 to 704.7882, inclusive, or any regulations adopted pursuant thereto; and

(g) Any additional requirements prescribed by the Commission.

4. An electric utility shall prepare a contract to be entered into by the electric utility and a participant and submit the contract to the Commission for approval. Upon approval of the contract by the Commission, the electric utility and the applicant may enter into the contract and the applicant may participate in the Program. The Commission shall forward a copy of the approved contract to the Office of Economic Development.

Sec. 3. NRS 704.7881 is hereby amended to read as follows:

704.7881 The Commission, in consultation with the Office of Economic Development:

1. Shall adopt regulations:

(a) Establishing the discounted electric rates that may be charged by an electric utility pursuant to the Program, which must be established as a percentage of the base tariff energy rate and for which:

(1) In the first *and second* year of a contract entered into pursuant to NRS 704.7877, the reduction in the rates as a result of the discount must not exceed 30 percent of the base tariff energy rate;

(2) In the ~~second~~ *third, fourth, fifth and sixth* year of a contract entered into pursuant to NRS 704.7877, the reduction in the



1 rates as a result of the discount must not exceed 20 percent of the
2 base tariff energy rate; *and*

3 (3) In the ~~[third]~~ *seventh and eighth* year of a contract
4 entered into pursuant to NRS 704.7877, the reduction in the rates as
5 a result of the discount must not exceed ~~[20]~~ *10* percent of the base
6 tariff energy rate; ~~and~~

7 ~~(4) In the fourth year of a contract entered into pursuant to~~
8 ~~NRS 704.7877, the reduction in the rates as a result of the discount~~
9 ~~must not exceed 10 percent of the base tariff energy rate;]~~

10 (b) Prescribing the form and content of the contract entered into
11 pursuant to NRS 704.7877;

12 (c) Prescribing the procedure by which an electric utility is
13 authorized to recover through a deferred energy accounting
14 adjustment application the amount of the discount provided to a
15 participant in the Program; and

16 (d) Prescribing any additional information which must be
17 submitted by an applicant for participation in the Program.

18 2. May adopt any other regulations it determines are necessary
19 to carry out the provisions of NRS 704.7871 to 704.7882, inclusive.

20 **Sec. 4.** Section 53 of chapter 504, Statutes of Nevada 2013, at
21 page 3228, is hereby amended to read as follows:

22 Sec. 53. 1. This section and section 52 of this act
23 become effective upon passage and approval.

24 2. Sections 1 to 51, inclusive, and 52.5 of this act
25 become effective on July 1, 2013.

26 3. Sections 10 to 21, inclusive, of this act expire by
27 limitation on ~~[June 30, 2018.]~~ *the date on which the last*
28 *contract entered into pursuant to the Program as defined in*
29 *section 13 of this act terminates, whether termination is by*
30 *expiration of the terms or otherwise.*

31 4. Sections 2.5 to 7, inclusive, of this act expire by
32 limitation on June 30, 2049.

33 **Sec. 5.** The amendatory provisions of sections 1, 2 and 3 of
34 this act do not apply to any contract entered into pursuant to the
35 Economic Development Electric Rate Rider Program before the
36 effective date of this act.

37 **Sec. 6.** This act becomes effective upon passage and approval.



