

ASSEMBLY BILL NO. 369—SELECT COMMITTEE ON ENERGY

MARCH 14, 2001

Referred to Select Committee on Energy

SUMMARY—Revises and repeals various provisions governing the regulation of public utilities. (BDR 58-1156)

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

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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 utilities; revising and repealing various provisions governing the regulation of public utilities; preventing certain electric utilities from disposing of certain generation assets for a certain period; placing restrictions on the disposal of such assets after that period; repealing provisions pertaining to the competitive provision of retail electric service; requiring the public utilities commission of Nevada to take certain actions to carry out the provisions of this act; and providing other matters properly relating thereto.

- 1 WHEREAS, In 1997, the legislature enacted comprehensive legislation  
2 designed to prepare the electric industry in this state for retail competition;  
3 and  
4 WHEREAS, In 1999, the legislature enacted additional legislation  
5 delaying the onset of such competition until March 1, 2000, unless the  
6 governor determined that a later date was necessary to protect the public  
7 interest; and  
8 WHEREAS, On several occasions, the governor has determined that  
9 commencement of retail competition in the electric industry is not yet in  
10 the public interest of this state and that this state is not yet adequately  
11 prepared to begin such competition; and  
12 WHEREAS, This state has not commenced retail competition in the  
13 electric industry, and the electric utilities in this state have not been  
14 required to operate in a competitive market; and  
15 WHEREAS, It is almost certain that this state will not, in the foreseeable  
16 future, be adequately prepared to implement retail competition in the  
17 electric industry; and  
18 WHEREAS, The electric utilities in this state have for decades operated  
19 in a strictly regulated market in which such utilities have dedicated their  
20 property to serve the public convenience and necessity and have been  
21 extended the privilege to be the exclusive providers of electricity within



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1 their respective service territories and have earned a reasonable rate of  
2 return on their investment in the electric industry; and

3 WHEREAS, The strict regulation of electric utilities in this state is vital to  
4 the economy of this state and is essential to protect the health, safety and  
5 welfare of the residents of this state; and

6 WHEREAS, This state has a compelling interest in continuing its  
7 historically strict regulation of the electric utilities in this state; and

8 WHEREAS, This state has a compelling interest in protecting the  
9 consumers in this state, in safeguarding the economy of this state and in  
10 requiring the electric utilities in this state to provide adequate and reliable  
11 electric service at just and reasonable prices; and

12 WHEREAS, In recent years, the western United States has experienced a  
13 severe and ongoing crisis in the electric industry marked by critical  
14 shortages in the supply of electricity and extreme volatility in the price of  
15 electricity in the wholesale and retail markets; and

16 WHEREAS, The severe and ongoing crisis in the electric industry in the  
17 western United States appears to be a chronic problem that may not be  
18 resolved for years or decades; and

19 WHEREAS, The severe and ongoing crisis in the electric industry in the  
20 western United States is both an immediate threat and a continuing danger  
21 to the economy of this state and to the health, safety and welfare of the  
22 residents of this state; and

23 WHEREAS, The severe and ongoing crisis in the electric industry in the  
24 western United States requires that this state preserve and continue its  
25 historically strict regulation of the electric utilities in this state to promote  
26 stability and predictability in the electric industry, to foster confidence in  
27 the financial markets, to ensure that consumers have adequate and reliable  
28 electric service and to protect the public from unjust and unreasonable  
29 utility rates; now, therefore,

30  
31 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
32 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:  
33

34 **Section 1.** NRS 703.010 is hereby amended to read as follows:

35 703.010 As used in this chapter, unless the context otherwise requires:

36 1. "Alternative seller" ~~has the meaning ascribed to it in NRS~~  
37 ~~704.967.~~ *means a person who sells any competitive, discretionary or*  
38 *potentially competitive component of natural gas service pursuant to*  
39 *NRS 704.993 to 704.999, inclusive.*

40 2. "Commission" means the public utilities commission of Nevada.

41 **Sec. 2.** NRS 703.025 is hereby amended to read as follows:

42 703.025 1. The commission, by majority vote, shall organize the  
43 commission into sections, alter the organization of the commission and  
44 reassign responsibilities and duties of the sections of the commission as the  
45 commission deems necessary to provide:

46 (a) Advice and guidance to the commission on economic policies  
47 relating to utilities under the jurisdiction of the commission, and the  
48 regulation of such utilities;



1 (b) Administrative, technical, legal and support services to the  
2 commission; and  
3 (c) For the regulation of utilities governed by the commission and the  
4 services offered by such utilities, including, but not limited to, licensing of  
5 such utilities and services and the resolution of consumer complaints.  
6 2. The commission shall:  
7 (a) Formulate the policies of the various sections of the commission;  
8 (b) Coordinate the activities of the various sections of the commission;  
9 (c) ~~{Take such}~~ *If customers are authorized by a specific statute to*  
10 *obtain a competitive, discretionary or potentially competitive utility*  
11 *service, take any* actions *which are* consistent with ~~{law as}~~ *the statute and*  
12 *which* are necessary to encourage and enhance:  
13 (1) A competitive market for the provision of *that* utility ~~{services}~~  
14 *service* to customers in this state; and  
15 (2) The reliability and safety of the provision of ~~{those services}~~ *that*  
16 *utility service* within that competitive market; and  
17 (d) Adopt such regulations consistent with law as the commission  
18 deems necessary for the operation of the commission and the enforcement  
19 of all laws administered by the commission.  
20 3. Before reorganizing the commission, the commission shall submit  
21 the plan for reorganization to:  
22 (a) The director of the legislative counsel bureau for transmittal to the  
23 appropriate legislative committee and the interim finance committee; and  
24 (b) The director of the department of administration.  
25 **Sec. 3.** NRS 703.110 is hereby amended to read as follows:  
26 703.110 1. ~~{The}~~ *Except as otherwise provided in sections 8 to 19,*  
27 *inclusive, of this act or any other specific statute, the* majority of the  
28 commissioners have full power to act in all matters within ~~{their}~~  
29 *jurisdiction. the jurisdiction of the commission.*  
30 2. If two commissioners are disqualified or if there are two vacancies  
31 within the commission, the remaining commissioner shall exercise all the  
32 powers of the commission.  
33 3. Except as otherwise provided in this chapter, all hearings and  
34 meetings conducted by the commission must be open to the public.  
35 **Sec. 4.** NRS 703.130 is hereby amended to read as follows:  
36 703.130 1. The commission shall appoint a deputy commissioner  
37 who shall serve in the unclassified service of the state.  
38 2. The commission shall appoint a secretary who shall perform such  
39 administrative and other duties as are prescribed by the commission. The  
40 commission shall also appoint an assistant secretary.  
41 3. The commission may employ such other clerks, experts or engineers  
42 as may be necessary.  
43 4. ~~{The commission may}~~ *Except as otherwise provided in*  
44 *subsection 5, the commission:*  
45 (a) *May* appoint one or more hearing officers for a period specified by  
46 the commission to conduct proceedings or hearings that may be conducted  
47 by the commission pursuant to chapters 704, 704A, 705, 708 and 711 of  
48 NRS. ~~{The commission shall}~~



1 (b) *Shall* prescribe by regulation the procedure for appealing a decision  
2 of a hearing officer to the commission.

3 5. *The commission may not appoint a hearing officer to conduct*  
4 *proceedings or hearings pursuant to sections 8 to 19, inclusive, of this*  
5 *act.*

6 **Sec. 5.** NRS 703.151 is hereby amended to read as follows:

7 703.151 In adopting regulations pursuant to this Title relating to the  
8 provision of electric service, the commission shall ensure that the  
9 regulations:

10 1. ~~1. Maximize the benefits of a competitive marketplace for the~~  
11 ~~provision of electric services;~~

12 ~~2. Maintain, to the extent possible, even and fair competition among~~  
13 ~~providers of electric service;~~

14 ~~3. Ensure the flexibility necessary for existing utilities that provide~~  
15 ~~energy to enter into a deregulated market;~~

16 ~~4. Foster innovation in the provision of electric services;~~

17 ~~5. Ensure and enhance reliability and safety in the provision of electric~~  
18 ~~services;~~

19 ~~6. Provide for flexible mechanisms for regulating electric services; and~~

20 ~~7.] Protect, further and serve the public interest;~~

21 2. Provide effective protection ~~for persons]~~ *for customers* who depend  
22 upon electric ~~services.]~~ *service;*

23 3. *Provide for stability in rates and for the availability and reliability*  
24 *of electric service;*

25 4. *Encourage the development and use of renewable energy*  
26 *resources; and*

27 5. *Require providers of electric service to engage in prudent business*  
28 *management, effective long-term planning, responsible decision making,*  
29 *sound fiscal strategies and efficient operations.*

30 **Sec. 6.** NRS 703.320 is hereby amended to read as follows:

31 703.320 1. ~~When, in]~~ *In* any matter pending before the commission,  
32 *if* a hearing is required by ~~law,]~~ *a specific statute* or is ~~normally]~~  
33 *otherwise* required by the commission, the commission shall give notice of  
34 the pendency of the matter to all persons entitled to notice of the hearing.  
35 The commission shall by regulation specify:

36 (a) The manner of giving notice ~~to]~~ *in each type of proceeding;* and

37 (b) ~~Where not specified by law, the]~~ *The* persons entitled to notice in  
38 each type of proceeding.

39 2. ~~Unless,]~~ *The commission may not dispense with a hearing in any*  
40 *matter pending before the commission pursuant to sections 8 to 19,*  
41 *inclusive, of this act.*

42 3. *In any other matter pending before the commission, the*  
43 *commission may dispense with a hearing and act upon the matter*  
44 *pending unless,* within 10 days after the date of the notice of pendency, a  
45 person entitled to notice of the hearing files with the commission a request  
46 that the hearing be held . ~~to, the commission may dispense with a hearing~~  
47 ~~and act upon the matter pending.~~

48 ~~3.]~~ *If such* a request for a hearing is filed, the commission shall give at  
49 least 10 days' notice of the hearing.



1     **Sec. 7.** Chapter 704 of NRS is hereby amended by adding thereto the  
2 provisions set forth as sections 8 to 19, inclusive, of this act.

3     **Sec. 8.** *As used in sections 8 to 19, inclusive, of this act, unless the*  
4 *context otherwise requires, the words and terms defined in sections 9 to*  
5 *17, inclusive, of this act have the meanings ascribed to them in those*  
6 *sections.*

7     **Sec. 9.** *“Affiliate” means a person who, directly or indirectly*  
8 *through one or more intermediaries, controls, is controlled by or is under*  
9 *common control with an electric utility.*

10    **Sec. 10.** 1. *“Approved by every member of the commission” means*  
11 *that, with regard to a particular matter before the commission, every*  
12 *commissioner appointed to the commission:*

13       (a) *Must be present at a hearing on the matter that is open to the*  
14 *public; and*

15       (b) *Must vote to approve the matter on the record at the hearing.*

16    2. *For the purposes of this section, “commissioner” does not include:*

17       (a) *Any vacancy within the commission; and*

18       (b) *Any commissioner who is prohibited or disqualified from voting or*  
19 *taking action on the matter pursuant to NRS 281.411 to 281.581,*  
20 *inclusive, or any other specific statute.*

21    **Sec. 11.** *“Consumer’s advocate” means the consumer’s advocate of*  
22 *the bureau of consumer protection in the office of the attorney general.*

23    **Sec. 12.** *“Dispose of a generation asset” means to:*

24       1. *Sell, lease, assign, transfer or divest an interest in a generation*  
25 *asset, in whole or in part, to another person;*

26       2. *Execute a contract or agreement to sell, lease, assign, transfer or*  
27 *divest an interest in a generation asset, in whole or in part, to another*  
28 *person; or*

29       3. *Perform any promise, covenant or obligation to sell, lease, assign,*  
30 *transfer or divest an interest in a generation asset, in whole or in part, to*  
31 *another person pursuant to the terms of a contract or agreement unless:*

32           (a) *The electric utility executed the contract or agreement before*  
33 *January 1, 2001;*

34           (b) *The commission approved the contract or agreement before*  
35 *January 1, 2001, if such approval was required; and*

36           (c) *The electric utility fully performed the promise, covenant or*  
37 *obligation to sell, lease, assign, transfer or divest the interest before the*  
38 *effective date of this act.*

39    **Sec. 13.** 1. *“Electric utility” means:*

40       (a) *Any public utility or successor in interest that:*

41           (1) *Is in the business of providing electric service to customers;*

42           (2) *Holds a certificate of public convenience and necessity issued or*  
43 *transferred pursuant to this chapter; and*

44           (3) *In the most recently completed calendar year or in any other*  
45 *calendar year within the 7 calendar years immediately preceding the*  
46 *most recently completed calendar year, had a gross operating revenue of*  
47 *\$250,000,000 or more in the State of Nevada;*

48       (b) *A subsidiary or affiliate of such a public utility;*



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1 (c) A holding company or other person that holds a controlling  
2 interest in such a public utility; and

3 (d) A successor in interest to any public utility, subsidiary, affiliate,  
4 holding company or person described in paragraph (a), (b) or (c).

5 2. The term does not include a cooperative association, nonprofit  
6 corporation, nonprofit association or provider of electric service which is  
7 declared to be a public utility pursuant to NRS 704.673 and which  
8 provides service only to its members.

9 **Sec. 14. 1. “Generation asset” means any plant, facility,**  
10 **equipment or system that:**

11 (a) Converts other forms of energy into electricity or otherwise  
12 produces electricity;

13 (b) Is located within this state;

14 (c) Is or was owned, possessed, controlled, leased, operated,  
15 administered, maintained, acquired or placed into service by an electric  
16 utility before, on or after January 1, 2001;

17 (d) Is subject, in whole or in part, to regulation by the commission;  
18 and

19 (e) Is used and useful for the convenience of the public, as determined  
20 by the commission.

21 2. The term does not include:

22 (a) Any hydroelectric plant, facility, equipment or system that has a  
23 generating capacity of not more than 5 megawatts; and

24 (b) Any net metering system, as defined in NRS 704.771.

25 **Sec. 15. 1. “Interest in a generation asset” means any interest, in**  
26 **whole or in part, in the physical plant, facility, equipment or system that**  
27 **makes up the generation asset, whether such interest is legal or**  
28 **equitable, present or future, or contingent or vested.**

29 2. The term does not include any interest in the electricity or other  
30 energy produced by the generation asset.

31 **Sec. 16. “Person” means:**

32 1. A natural person;

33 2. Any form of business or social organization and any other  
34 nongovernmental legal entity, including, without limitation, a  
35 corporation, partnership, association, trust or unincorporated  
36 organization;

37 3. A government or an agency or instrumentality of a government,  
38 other than this state or an agency or instrumentality of this state; and

39 4. A political subdivision of this state or of any other government or  
40 an agency or instrumentality of a political subdivision of this state or of  
41 any other government.

42 **Sec. 17. “Substantial financial emergency” means, with regard to**  
43 **an electric utility, any set of circumstances that:**

44 1. Exists or has a substantial probability of coming into existence  
45 within the immediate future; and

46 2. Has caused or has a substantial probability of causing the electric  
47 utility to become:



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- 1 (a) Insolvent or subject to any proceeding in bankruptcy; or  
2 (b) Unable to secure credit, fuel or power to such a degree that the  
3 electric utility is substantially impaired in its ability to provide reliable  
4 electric service to its customers.

5 **Sec. 18. 1.** Except as otherwise provided in section 19 of this act,  
6 an electric utility shall not dispose of a generation asset unless, before  
7 the disposal, the commission approves the disposal by a written order  
8 issued in accordance with the provisions of this section.

9 2. Before July 1, 2003, an electric utility may not file an application  
10 to dispose of a generation asset, and the commission may not authorize  
11 an electric utility to dispose of a generation asset.

12 3. On or after July 1, 2003, and before July 1, 2007, an electric  
13 utility may file an application to dispose of a generation asset only if the  
14 application is based upon a substantial financial emergency. If an  
15 electric utility files such an application, the commission may not approve  
16 the application unless:

17 (a) The electric utility proves a substantial financial emergency by  
18 clear and convincing evidence; and

19 (b) The application is approved by every member of the commission.  
20 Such approval may be based upon such terms, conditions or  
21 modifications as the commission deems appropriate, if such terms,  
22 conditions or modifications are approved by every member of the  
23 commission.

24 4. On or after July 1, 2007, an electric utility may file an application  
25 to dispose of a generation asset. If an electric utility files such an  
26 application, the commission may approve the application upon such  
27 terms, conditions or modifications as the commission deems appropriate,  
28 if the commission finds that disposal of the generation asset will be in the  
29 public interest.

30 5. If an electric utility files an application to dispose of a generation  
31 asset, the consumer's advocate shall be deemed a party of record and  
32 does not have to file a petition to intervene in the matter.

33 6. If an electric utility disposes of a generation asset in violation of  
34 this section, the disposal is void and unenforceable and is not valid for  
35 any purpose.

36 **Sec. 19. 1.** An electric utility may dispose of its generation assets  
37 pursuant to a merger, acquisition or transaction that is authorized  
38 pursuant to NRS 704.329 or pursuant to a transfer of its certificate of  
39 public convenience and necessity that is authorized pursuant to NRS  
40 704.410, if:

41 (a) The other person in the merger, acquisition, transaction or  
42 transfer is not a subsidiary or affiliate of the electric utility or a holding  
43 company or other person that holds a controlling interest in the electric  
44 utility; and

45 (b) The electric utility disposes of substantially all of its generation  
46 assets and substantially all of its other assets to the other person in the  
47 merger, acquisition, transaction or transfer.

48 2. Any person who assumes or has assumed ownership, possession,  
49 control, operation, administration or maintenance of a generation asset



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*pursuant to a merger, acquisition, transaction or transfer described in subsection 1 is subject to the provisions of sections 8 to 19, inclusive, of this act.*

**Sec. 20.** NRS 704.030 is hereby amended to read as follows:

704.030 “Public utility” or “utility” does not include:

1. Persons engaged in the production and sale of natural gas, other than sales to the public, or engaged in the transmission of natural gas other than as a common carrier transmission or distribution line or system.

2. Persons engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this state if:

(a) They serve 25 persons or less; and

(b) Their gross sales for water or services for the disposal of sewage, or both, amounted to \$5,000 or less during the immediately preceding 12 months.

3. Persons not otherwise engaged in the business of furnishing, producing or selling water or services for the disposal of sewage, or both, but who sell or furnish water or services for the disposal of sewage, or both, as an accommodation in an area where water or services for the disposal of sewage, or both, are not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water or services for the disposal of sewage, or both, for compensation, to persons within the political subdivision.

4. Persons who are engaged in the production and sale of energy, including electricity, to public utilities, cities, counties or other entities which are reselling the energy to the public.

5. Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.

6. Persons who are engaged in the sale or use of special fuel as defined in NRS 366.060.

~~7. Persons who are licensed as alternative sellers to provide electric services.~~

~~8.~~ Persons who provide water from water storage, transmission and treatment facilities if those facilities are for the storage, transmission or treatment of water from mining operations.

**Sec. 21.** NRS 704.329 is hereby amended to read as follows:

704.329 1. Except as otherwise provided in subsection 4, no person may merge with, acquire through a subsidiary or affiliate, or otherwise directly or indirectly obtain control of a public utility doing business in this state or an entity that holds a controlling interest in such a public utility without first submitting to the commission an application for authorization of the proposed transaction and obtaining authorization from the commission pursuant to subsection 2. Any merger, acquisition or change in control in violation of this section is not valid for any purpose.

2. Before authorizing the merger, acquisition or change in control of a public utility doing business in this state, the commission shall consider the effect of the proposed transaction. If the commission finds that the proposed merger, acquisition or change in control is in the public interest



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1 ~~It~~ *and complies with the provisions of section 19 of this act*, the  
2 commission shall authorize the proposed transaction.

3 3. If the commission does not issue a final determination regarding the  
4 proposed transaction within 180 days after the date on which an application  
5 or amended application for authorization of the proposed transaction was  
6 filed with the commission, *and the transaction:*

7 *(a) Is not subject to the provisions of section 19 of this act*, the  
8 transaction shall be deemed approved.

9 *(b) Is subject to the provisions of section 19 of this act, the transaction*  
10 *shall be deemed disapproved.*

11 4. The provisions of this section do not apply to the transfer of stock of  
12 a public utility doing business in this state or to the transfer of the stock of  
13 an entity holding a controlling interest in such a public utility, if a transfer  
14 of not more than 25 percent of the common stock of such a public utility or  
15 entity is proposed.

16 **Sec. 22.** NRS 704.370 is hereby amended to read as follows:

17 704.370 1. The commission shall have the power, after hearing, to  
18 issue or refuse such certificate of public convenience, or to issue it for the  
19 construction of a portion only of the contemplated line, plant or systems, or  
20 extension thereof, and may attach thereto such terms and conditions as, in  
21 its judgment, the public convenience and necessity may require.

22 2. ~~It~~ *Except as otherwise provided in subsection 3, the*  
23 *commission, in its discretion* ~~It~~ *and after investigation*, may dispense with  
24 the hearing on the application if, upon the expiration of the time fixed in  
25 the notice thereof, no protest against the granting of the ~~certificate~~  
26 *application* has been filed by or on behalf of any interested person.

27 3. *The commission may not dispense with the hearing on the*  
28 *application of an electric utility, as defined in section 13 of this act.*

29 **Sec. 23.** NRS 704.390 is hereby amended to read as follows:

30 704.390 1. It ~~shall be~~ *is* unlawful for any public utility to  
31 discontinue, modify or restrict service to any city, town, municipality,  
32 community or territory theretofore serviced by it, except upon 30 days'  
33 notice filed with the commission, specifying in detail the character and  
34 nature of the discontinuance or restriction of the service intended, and upon  
35 order of the commission, made after hearing, permitting such  
36 discontinuance, modification or restriction of service.

37 2. ~~It~~ *Except as otherwise provided in subsection 3, the*  
38 *commission*, in its discretion and after investigation, may dispense with  
39 the hearing on the application for discontinuance, modification or  
40 restriction of service ~~It~~ *if*, upon the expiration of the time fixed in the  
41 notice thereof, no protest against the granting of the application has been  
42 filed by or on behalf of any interested person.

43 3. *The commission may not dispense with the hearing on the*  
44 *application of an electric utility, as defined in section 13 of this act.*

45 **Sec. 24.** NRS 704.410 is hereby amended to read as follows:

46 704.410 1. Any public utility subject to the provisions of NRS  
47 ~~704.005~~ *704.001* to 704.751, inclusive, *and sections 8 to 19, inclusive, of*  
48 *this act* to which a certificate of public convenience and necessity has been  
49 issued pursuant to NRS ~~704.005~~ *704.001* to 704.751, inclusive, *and*



1 *sections 8 to 19, inclusive, of this act* may transfer the certificate to any  
2 person qualified under NRS ~~704.005~~ 704.001 to 704.751, inclusive, ~~but~~  
3 ~~the~~ *and sections 8 to 19, inclusive, of this act. Such a* transfer is not valid  
4 for any purpose until a joint application to make the transfer has been made  
5 to the commission by the transferor and the transferee, and the commission  
6 has authorized the substitution of the transferee for the transferor. *If the*  
7 *transferor is an electric utility, the commission may not authorize the*  
8 *transfer unless the transfer complies with the provisions of section 19 of*  
9 *this act.*

10 2. The commission ~~may~~ :  
11 (a) *Shall conduct a hearing on a transfer involving an electric utility.*  
12 (b) *May* direct that a hearing be ~~had in the matter of the transfer.~~  
13 *conducted on a transfer involving any other public utility.* If the  
14 commission determines that *such* a hearing should be held, the hearing  
15 must be noticed and conducted in the same manner as other contested  
16 hearings before the commission.

17 ~~3. The commission has the sole discretion to direct that a hearing be~~  
18 ~~held if the application seeks to transfer the certificate from a person or~~  
19 ~~partners to a corporation when the officers of the corporation will be~~  
20 ~~substantially the same person or partners.~~

21 ~~4.~~ The commission may dispense with *such* a hearing if, upon the  
22 expiration of the time fixed in the notice thereof, no protest to the proposed  
23 transfer has been filed by or on behalf of any interested person.

24 ~~5.~~ 3. In determining whether the transfer of a certificate of public  
25 convenience and necessity to an applicant transferee should be authorized,  
26 the commission must take into consideration:  
27 (a) The utility service performed by the transferor and the proposed  
28 utility service of the transferee;  
29 (b) Other authorized utility services in the territory for which the  
30 transfer is sought; and  
31 (c) Whether the transferee is fit, willing and able to perform the services  
32 of a public utility and whether the proposed operation will be consistent  
33 with the legislative policies set forth in NRS ~~704.005~~ 704.001 to 704.751,  
34 inclusive ~~+~~  
35 ~~6.~~, *and sections 8 to 19, inclusive, of this act.*

36 4. The commission may make such amendments, restrictions or  
37 modifications in a certificate upon transferring it as the public interest  
38 requires.

39 ~~7.~~ 5. No transfer is valid beyond the life of the certificate transferred.

40 6. *As used in this section, "electric utility" has the meaning ascribed*  
41 *to it in section 13 of this act.*

42 Sec. 25. NRS 704.961 is hereby amended to read as follows:  
43 704.961 The commission ~~shall expend up to \$500,000~~ *may expend*  
44 *money* from its reserve account to provide education and informational  
45 services necessary to educate and inform the residents in this state on  
46 issues related to the provision of ~~competitive~~ utility services in this state.  
47 The commission ~~shall~~ *may* contract with an independent person to  
48 provide such educational and informational services.



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1     **Sec. 26.** NRS 704.989 is hereby amended to read as follows:

2     704.989 1. The commission shall establish portfolio standards for  
3 domestic energy that ~~{sets}~~ *set* forth the minimum percentage of the total  
4 electricity sold *by electric utilities to retail customers* during each calendar  
5 year that must be derived from renewable energy resources. The portfolio  
6 standards must:

7     (a) ~~{Be}~~ *On January 1, 2001, be* set at two-tenths of ~~{one}~~ *1* percent of  
8 the total amount of electricity ~~{annually consumed by customers}~~  
9 *consumed* in this state ~~{as of January 1, 2001.}~~ (b) ~~Be increased~~  
10 *biannually thereafter* *by retail customers of electric utilities during the*  
11 *immediately preceding calendar year.*

12     (b) *On January 1 of each successive odd-numbered year, be increased*  
13 *by two-tenths of {one} 1 percent of the total {annual electric consumption*  
14 *by the} amount of electricity consumed in this state by retail customers of*  
15 *electric utilities during the immediately preceding calendar year* until the  
16 ~~{standard reaches}~~ *portfolio standards reach* a total of 1 percent of the total  
17 amount of electricity consumed ~~{}~~ *in this state by retail customers of*  
18 *electric utilities during the immediately preceding calendar year.*

19     (c) Be derived from not less than 50 percent renewable energy  
20 resources.

21     (d) Be derived from not less than 50 percent solar renewable energy  
22 systems.

23     (e) Be based on renewable energy credits, if applicable.

24     2. Each ~~{vertically integrated}~~ electric utility ~~{and alternative seller that~~  
25 ~~provides electric service in this state}~~ shall comply with the portfolio  
26 ~~{standard}~~ *standards* established by the commission pursuant to this  
27 section. At the end of each calendar year, each ~~{vertically integrated}~~  
28 electric utility ~~{and alternative seller}~~ shall submit a report, in a format  
29 approved by the commission, of the quantity of renewable energy and  
30 credits, if applicable, that the *electric* utility ~~{or alternative seller}~~  
31 generated, purchased, sold and traded to meet the *portfolio* standards. ~~{of~~  
32 ~~the portfolio.}~~

33     3. In establishing the portfolio *standards* pursuant to this section, the  
34 commission may establish a system of credits pursuant to which an electric  
35 utility ~~{and alternative seller}~~ may comply with the provisions of this  
36 section. A system of credits must provide that:

37     (a) Credits are issued for renewable energy resources for each kilowatt  
38 hour of energy which it produces; and

39     (b) Holders of credits may trade or sell the credits to other parties.

40     4. For the purposes of this section, ~~{a vertically integrated}~~ *an* electric  
41 utility which, on January 1, 1997, has 9 percent of its electricity consumed  
42 by its customers served by renewable energy resources shall be deemed to  
43 be in compliance until January 1, 2005, with the portfolio standards  
44 established by the commission pursuant to this section. Between January 1,  
45 2005, and December 31, 2009, such ~~{a vertically integrated}~~ *an* electric  
46 utility ~~{and its affiliated alternative seller, if any.}~~ shall reach a total of one-  
47 half of 1 percent of the amount of electricity consumed by its customers, in  
48 annual increments of one-tenth of 1 percent, in solar energy resources for



1 full compliance with the portfolio ~~standard~~ *standards* established by the  
2 commission pursuant to this section.

3 5. ~~The~~ *In addition to the report required by subsection 2, each*  
4 electric utility ~~and alternative seller~~ shall submit a report ~~to~~ , *in a*  
5 *format approved by* the commission , that provides information relating to  
6 the compliance by the ~~vertically integrated~~ electric utility ~~for alternative~~  
7 ~~seller~~ with the requirements of this section. Such reports must be made at  
8 least annually, unless the commission by regulation determines that such  
9 reports must be made more frequently than annually, and must include  
10 clear and concise information that sets forth:

11 (a) If the ~~vertically integrated~~ electric utility installed a renewable  
12 energy system during the period for which the report is being made, the  
13 date of installation;

14 (b) The capacity of renewable energy systems of the ~~vertically~~  
15 ~~integrated~~ electric utility ; ~~for alternative seller;~~

16 (c) The amount of production of energy from the renewable energy  
17 systems;

18 (d) The portion of the production of energy that is directly derived from  
19 renewable energy resources;

20 (e) The quantity of energy from renewable energy systems that is  
21 transmitted or distributed, or both, to customers in this state by the  
22 ~~vertically integrated~~ electric utility ; ~~for alternative seller;~~ and

23 (f) Such other information that the commission by regulation may deem  
24 relevant.

25 6. ~~Nothing in this section applies~~ *The provisions of this section do*  
26 *not apply* to:

27 (a) Rural electric cooperatives established pursuant to chapter 81 of  
28 NRS;

29 (b) General improvement districts established pursuant to chapter 318  
30 of NRS; or

31 (c) Utilities established pursuant to chapter 709 or 710 of NRS.

32 7. As used in this section:

33 (a) *"Electric utility" has the meaning ascribed to it in section 13 of*  
34 *this act.*

35 (b) "Renewable energy resources" means wind, solar, geothermal and  
36 biomass energy resources in this state that are naturally regenerated.

37 ~~(b)~~ (c) "Renewable energy system" means an energy system in this  
38 state that utilizes renewable energy resources to produce electricity or solar  
39 thermal energy systems that reduce the consumption of electricity that was  
40 installed and commenced operations after July 1, 1997.

41 **Sec. 27.** NRS 704.990 is hereby amended to read as follows:

42 704.990 The commission shall prepare ~~a quarterly~~ *an annual* report  
43 for the legislature that assesses the developments in the electric industry in  
44 the State of Nevada. The reports must be submitted to the director of the  
45 legislative counsel bureau for transmittal to the legislature and must  
46 include, but are not limited to, a discussion of:

47 1. Whether ~~there is effective competition for each potentially~~  
48 ~~competitive service;~~



~~2. The compatibility of direct access for retail customers to alternative sellers; providers of electric service are:~~

*(a) Developing new facilities in this state for the generation, transmission and distribution of electricity;*

*(b) Developing and using renewable energy resources and complying with the portfolio standards established by NRS 704.989; and*

*(c) Engaging in prudent business management, effective long-term planning, responsible decision making, sound fiscal strategies and efficient operations;*

*2. How current and projected market conditions in the electric industry may affect rates, the availability of power, the reliability of electric service and the regulation of providers of electric service;*

*3. Whether the electric industry is operating consistently with environmental goals ;*

~~3. The effects of direct access for retail customers to alternative sellers on each class of customers, compared to the noncompetitive regulatory structure ;~~

4. The opportunities to cooperate, formally or informally, with other states or the Federal Government in the implementation of effective ~~competition;~~ *regulation of the electric industry on a statewide, regional and national level;* and

5. Additional legislation necessary to ~~achieve the goals of NRS 704.965 to 704.990, inclusive;~~ *carry out the purposes of this chapter.*

**Sec. 28.** NRS 228.360 is hereby amended to read as follows:

228.360 The consumer's advocate ~~may;~~ *:*

*1. Shall intervene in and represent the public interest in all proceedings conducted pursuant to sections 8 to 19, inclusive, of this act.*

*2. May,* with respect to all public utilities except railroads and cooperative utilities, and except as provided in NRS 228.380:

~~1-1~~ *(a)* Conduct or contract for studies, surveys, research or expert testimony relating to matters affecting the public interest or the interests of utility customers.

~~1-2~~ *(b)* Examine any books, accounts, minutes, records or other papers or property of any public utility subject to the regulatory authority of the public utilities commission of Nevada in the same manner and to the same extent as authorized by law for members of the public utilities commission of Nevada and its staff.

~~1-3. Petition~~

*(c) Except as otherwise provided in subsection 1, petition* for, request, initiate, appear or intervene in any proceeding concerning rates, charges, tariffs, modifications of service or any related matter before the public utilities commission of Nevada or any court, regulatory body, board, commission or agency having jurisdiction over any matter which the consumer's advocate may bring before or has brought before the public utilities commission of Nevada or in which the public interest or the interests of any particular class of utility customers are involved. The consumer's advocate may represent the public interest or the interests of any particular class of utility customers in any such proceeding, and he is a real party in interest in the proceeding.



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1     **Sec. 29.** NRS 228.390 is hereby amended to read as follows:  
2     228.390     *Except as otherwise provided in sections 8 to 19, inclusive,*  
3     *of this act:*

4     1. The consumer's advocate has sole discretion to represent or refrain  
5     from representing the public interest and any class of customers in any  
6     proceeding.

7     2. In exercising his discretion, the consumer's advocate shall consider  
8     the importance and extent of the public interest or the customers' interests  
9     involved and whether those interests would be adequately represented  
10    without his participation.

11    3. If the consumer's advocate determines that there would be a conflict  
12    between the public interest and any particular class of customers or any  
13    inconsistent interests among the classes of customers involved in a  
14    particular matter, he may choose to represent one of the interests, to  
15    represent no interest, or to represent one interest through his office and  
16    another or others through outside counsel engaged on a case basis.

17    **Sec. 30.** NRS 538.181 is hereby amended to read as follows:

18    538.181    1. The commission shall hold and administer all rights and  
19    benefits pertaining to the distribution of the power and water mentioned in  
20    NRS 538.041 to 538.251, inclusive, for the State of Nevada ~~and~~ and, except  
21    as otherwise provided in NRS 538.186, may enter into contracts relating to  
22    that power and water, including the transmission and other distribution  
23    services, on such terms as the commission determines.

24    2. Every applicant, except a federal or state agency or political  
25    subdivision, for power or water to be used within the State of Nevada must,  
26    before the application is approved, provide an indemnifying bond by a  
27    corporation qualified pursuant to the laws of this state, or other collateral,  
28    approved by the state board of examiners, payable to the State of Nevada in  
29    such sum and in such manner as the commission may require, conditioned  
30    for the full and faithful performance of the lease, sublease, contract or other  
31    agreement.

32    3. The power and water must not be sold for less than the actual cost to  
33    the State of Nevada.

34    4. Except as otherwise provided in subsection 5, before any such sale  
35    or lease is made, a notice of it must be advertised in two papers of general  
36    circulation published in the State of Nevada at least once a week for 2  
37    weeks. The commission shall require any person desiring to make  
38    objection thereto to file the objection with the commission within 10 days  
39    after the date of the last publication of the notice. If any objection is filed,  
40    the commission shall set a time and place for a hearing of the objection not  
41    more than 30 days after the date of the last publication of the notice.

42    5. The provisions of subsection 4 do not apply to:

43    (a) Any contract by the commission to sell supplemental power to a  
44    holder of a long-term firm contract with the state for power if the  
45    supplemental power is procured by the commission from a prearranged  
46    source and is secured by the holder for his own use; or

47    (b) Any agreement by the commission to sell short-term or interruptible  
48    power on short notice for immediate acceptance to a holder of a long-term



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1 firm contract with the state for power who can take delivery of the short-  
2 term or interruptible power when it is available.

3 6. Except as otherwise provided in subsection 2 of NRS 538.251, any  
4 such lease, sublease, contract or sale of the water or power is not binding  
5 upon the State of Nevada until ratified and approved by the governor and,  
6 where required by federal law, until approved by the United States.

7 7. The commission shall, upon the expiration of a contract for the sale  
8 of power which is in effect on July 1, 1993, offer to the purchaser the right  
9 to renew the contract. If the commission is unable to supply the amount of  
10 power set forth in the contract because of a shortage of power available for  
11 sale, it shall reduce, on a pro rata basis, the amount of power it is required  
12 to sell pursuant to the renewed contract.

13 8. ~~Except as otherwise provided in NRS 704.987, notwithstanding~~  
14 ~~Notwithstanding~~ any provision of chapter 704 of NRS, any purchase of:

15 (a) Power or water for distribution or exchange, and any subsequent  
16 distribution or exchange of power or water by the commission; or

17 (b) Water for distribution or exchange, and any subsequent distribution  
18 or exchange of water by any entity to which or with which the commission  
19 has contracted the water,

20 is not subject to regulation by the public utilities commission of Nevada.

21 **Sec. 31.** 1. NRS 704.965, 704.966, 704.967, 704.968, 704.969,  
22 704.970, 704.971, 704.972, 704.973, 704.974, 704.975, 704.976, 704.977,  
23 704.978, 704.979, 704.980, 704.981, 704.982, 704.9823, 704.9826,  
24 704.9829, 704.983, 704.984, 704.985, 704.986, 704.9865, 704.987 and  
25 704.988 are hereby repealed.

26 2. Sections 335 and 337 of chapter 482, Statutes of Nevada 1997, at  
27 pages 2021 and 2022, respectively, and sections 17, 21, 22, 24 and 26 of  
28 chapter 600, Statutes of Nevada 1999, at pages 3269 and 3272, are hereby  
29 repealed.

30 **Sec. 32.** 1. The public utilities commission of Nevada shall:

31 (a) Amend, modify, supplement, annul or vacate any order or directive  
32 issued by the commission before the effective date of this act that  
33 authorizes or requires an electric utility to dispose of any generation asset,  
34 if such disposal would violate the provisions of this act;

35 (b) Take all appropriate action to request that the Federal Energy  
36 Regulatory Commission and any other officer, agency or department of the  
37 Federal Government:

38 (1) Not issue any order or directive that authorizes or requires an  
39 electric utility to dispose of any generation asset, if such an order or  
40 directive could be interpreted as being in conflict with or preempting the  
41 provisions of this act; and

42 (2) Amend, modify, supplement, annul or vacate any order or  
43 directive issued before, on or after the effective date of this act that  
44 authorizes or requires an electric utility to dispose of any generation asset,  
45 if such an order or directive could be interpreted as being in conflict with  
46 or preempting the provisions of this act;

47 (c) If any action taken pursuant to paragraph (b) is unsuccessful, take all  
48 appropriate legal action to challenge any order or directive issued by the



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- 1 Federal Energy Regulatory Commission or any other officer, agency or  
2 department of the Federal Government that authorizes or requires an  
3 electric utility to dispose of any generation asset, if such an order or  
4 directive could be interpreted as being in conflict with or preempting the  
5 provisions of this act; and  
6 (d) Take any other action or issue any other orders necessary to carry  
7 out the provisions of this act.  
8 2. Notwithstanding any other provision of law, the public utilities  
9 commission of Nevada is hereby empowered and authorized to take any  
10 action or to issue any orders necessary to carry out the provisions of this  
11 act.  
12 **Sec. 33.** Any license issued to an alternative seller pursuant to NRS  
13 704.977 is void on and after the effective date of this act.  
14 **Sec. 34.** This act becomes effective upon passage and approval.

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### LEADLINES OF REPEALED SECTIONS

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- 704.965 **Definitions.**  
704.966 “Aggregation service” defined.  
704.967 “Alternative seller” defined.  
704.968 “Customer” defined.  
704.969 “Effective competition” defined.  
704.970 “Electric distribution utility” defined.  
704.971 “Electric service” defined.  
704.972 “Generation service” defined.  
704.973 “Noncompetitive service” defined.  
704.974 “Potentially competitive service” defined.  
704.975 “Vertically integrated electric utility” defined.  
704.976 Date upon which customers may begin obtaining  
potentially competitive services from alternative sellers; exception;  
commission authorized to establish different dates for provision of  
different services; determination of potentially competitive service;  
determination of prices under certain circumstances; regulations; date  
upon which potentially competitive electric service deemed  
competitive; reconsideration of determinations; date upon which  
vertically integrated electric utility is required to provide potentially  
competitive service through affiliate.  
704.977 Licensing of alternative sellers: Requirements;  
regulations; provision of aggregation service.  
704.978 Provision of potentially competitive service by provider of  
noncompetitive service prohibited; exception; certain facilities or  
services of provider of noncompetitive service to be made available to  
alternative sellers on equal and nondiscriminatory basis; use of name  
or logo by affiliate.



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704.979 Markets for electric services: Monitoring by commission; investigations; regulations; transmission of evidence of anticompetitive or discriminatory conduct to attorney general or appropriate federal agency; alternative sellers and affiliates not exempt from other applicable statutes; person aggrieved by conduct of alternative seller not required to seek relief first from commission.

704.980 Provision of potentially competitive service by affiliate of provider of noncompetitive service: Requirements; regulations; provider of noncompetitive service and affiliate subject to applicable statutes relating to consumer and antitrust protections.

704.981 Noncompetitive service: Requirements; regulations.

704.982 Designation of vertically integrated electric utility or its successor electric distribution utility for certain customers; obligation to serve; rate to be charged; alternate methods for providing electric service; reacquisition of service from designated provider; limitation on commission adjusting rates, earnings, rate base or rate of return of designated provider.

704.9823 Commission to establish total rate for components of electric service for each class of customers of electric service; modification of rates; reduction of total rate; inapplicability of total rates to customer of alternative seller.

704.9826 Authority of designated provider of electric service to recover shortfall.

704.9829 Authority of licensed alternative seller to take over part of service provided by designated vertically integrated electric utility; offer; auction; bidding; review of bids.

704.983 Recoverable costs of vertically integrated electric utilities and successor electric distribution utilities; procedure adopted by commission for recovery from ratepayers; commission required to consider minimization of certain federal taxes in determining recoverable costs.

704.984 Adverse effects of competitive service on employees of vertically integrated electric utilities; certain costs related to employees to be considered in determining recoverable costs.

704.985 Change in alternative sellers: Procedure; standards; educational program.

704.986 Vertically integrated electric utility to submit plan for compliance to commission; commission authorized to exempt vertically integrated electric utility or alternative seller from strict application of certain provisions of chapter.

704.9865 Vertically integrated electric utility in existence on January 1, 1999, to comply with existing obligations for purchase of power; recovery of costs.

704.987 Colorado River commission: Sale of electricity; provision of transmission or distribution service.

704.988 Availability of electric service: Forecasts of electric capacity and energy; establishment of equitable obligations to ensure sufficient capacity is available; submission of information to commission.



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TEXT OF REPEALED SECTIONS

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**Section 335 of chapter 482, Statutes of Nevada 1997:**

Sec. 335. The executive director of the department of taxation shall, not later than January 1, 1999, submit to the director of the legislative counsel bureau for distribution to the legislature a report including, but not limited to:

1. An analysis of the effect of the tax policies of this state on:
  - (a) The potential for effective competition in providing electric services to customers; and
  - (b) The effect of competition in providing electric services to customers on the revenue from taxes and franchise fees of this state and local governments.
2. Recommendations for legislation that would advance the purposes of sections 28 to 53, inclusive, of this act and ensure a minimal effect on the tax revenue of this state and local governments.

**Section 337 of chapter 482, Statutes of Nevada 1997:**

Sec. 337. The public service commission of Nevada shall adopt regulations to carry out the provisions of sections 28 to 53, inclusive, of this act not later than July 1, 1999.

**Section 17 of chapter 600, Statutes of Nevada 1999:**

Sec. 17. NRS 704.982 is hereby amended to read as follows:

704.982 1. The commission shall designate ~~fa—vertically integrated electric utility or its successor~~ *an* electric distribution utility to provide electric service to customers who are unable to obtain electric service from an alternative seller or who fail to select an alternative seller. The provider so designated by the commission is obligated to provide electric service to the customers. Electric service provided by the utility pursuant to this section shall be deemed to be a noncompetitive service for which the utility may recover its costs pursuant to NRS 704.001 to 704.655, inclusive, 704.701 to 704.751, inclusive, and 704.800 to 704.900, inclusive.

2. ~~{The rate that the designated provider of electric service must charge a customer for the provision of electric service pursuant to subsection 1 is the total rate established for that class of customer by the commission pursuant to section 4 of this act.~~

~~—3—~~ Upon a finding by the commission that the public interest will be promoted, the commission may prescribe alternate methods for providing electric service to those customers described in subsection 1. The alternate methods may include, but are not limited to, the direct assignment of customers to alternative sellers or *other* electric distribution utilities or a process of competitive bidding for the right to provide electric service to the designated customers, including, without limitation, an auction conducted pursuant to section 6 of this



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act. ~~[Any alternate methods prescribed by the commission pursuant to this subsection may not go into effect before July 1, 2001.]~~

~~—4—~~ 3. *A customer who has obtained generation, aggregation or any other potentially competitive service for at least 30 continuous days from an alternative seller [after March 1, 2000, or such other date that is determined to be in the public interest by the governor pursuant to NRS 704.976,] may reacquire service from the designated provider of electric service pursuant to tariffs approved by the commission.* The commission shall establish minimum terms and conditions under which electric service must be provided pursuant to this section, including a minimum period during which a customer must be obligated to pay for the electric service from the assigned provider. The price charged for electric service for a particular group of customers must reflect the incremental cost of serving the group.

~~[5—~~ 4. If the designated provider of the electric service pursuant to subsection 1 is ~~[a vertically integrated]~~ an electric *distribution* utility, the utility shall provide the electric service ~~[on or after July 1, 2001,]~~ only through an affiliate whose sole business activity is the provision of electric service.

~~[6. Except upon the application of the designated provider to reduce the total rate for any class of customers pursuant to section 4 of this act, the commission shall not initiate or conduct any proceedings to adjust the rates, earnings, rate base or rate of return of the designated provider of electric service during the period in which the provider is providing that service to customers pursuant to this section.]~~

**Section 21 of chapter 600, Statutes of Nevada 1999:**

Sec. 21. On or before March 1, 2000, or such other date that is determined to be in the public interest by the governor pursuant to NRS 704.976, the commission shall, for the purposes of NRS 704.986, establish for each class of customers of electric service in this state the rate for each component and a total rate for electric services for customers based on the cost to provide electric service to each class of customers in this state. The total rate established for each class of customers pursuant to this section must be the same as the total rate for each class of customers that is in effect on June 1, 1999.

**Section 22 of chapter 600, Statutes of Nevada 1999:**

Sec. 22. On or before March 1, 2000, or such other date that is determined to be in the public interest by the governor pursuant to NRS 704.976, an alternative seller and a vertically integrated electric utility may negotiate and enter into a contract with a customer for the provision of electric service, but no such contract is effective before March 1, 2000, or such other date that is determined to be in the public interest by the governor pursuant to NRS 704.976.

**Section 24 of chapter 600, Statutes of Nevada 1999:**

Sec. 24. This act must not be construed to impair any existing rights under any labor agreement to which a vertically integrated electric utility or its successor electric distribution utility or an affiliate thereof is a party on July 1, 1999.



**Section 26 of chapter 600, Statutes of Nevada 1999:**

Sec. 26. If the pending merger between Sierra Pacific Resources and Nevada Power Company, referred to in the records of the Public Utilities Commission of Nevada as Docket No. 98-7023, is terminated for any reason before the completion of the merger, this act expires by limitation on the date on which the pending merger is terminated.

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