

(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT **A.B. 369**

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.** (Deleted by amendment.)
26 **Sec. 4.** NRS 703.130 is hereby amended to read as follows:
27 703.130 1. The commission shall appoint a deputy commissioner
28 who shall serve in the unclassified service of the state.
29 2. The commission shall appoint a secretary who shall perform such
30 administrative and other duties as are prescribed by the commission. The
31 commission shall also appoint an assistant secretary.
32 3. The commission may employ such other clerks, experts or engineers
33 as may be necessary.
34 4. ~~The commission may~~ *Except as otherwise provided in*
35 *subsection 5, the commission:*
36 (a) *May* appoint one or more hearing officers for a period specified by
37 the commission to conduct proceedings or hearings that may be conducted
38 by the commission pursuant to chapters 704, 704A, 705, 708 and 711 of
39 NRS. ~~The commission shall~~
40 (b) *Shall* prescribe by regulation the procedure for appealing a decision
41 of a hearing officer to the commission.
42 **5. The commission may not appoint a hearing officer to conduct**
43 **proceedings or hearings pursuant to sections 8 to 19, inclusive, of this**
44 **act.**
45 **Sec. 5.** NRS 703.151 is hereby amended to read as follows:
46 703.151 In adopting regulations pursuant to this Title relating to the
47 provision of electric service, the commission shall ensure that the
48 regulations:



1 1. ~~Maximize the benefits of a competitive marketplace for the~~
2 ~~provision of electric services;~~
3 ~~2. Maintain, to the extent possible, even and fair competition among~~
4 ~~providers of electric service;~~
5 ~~3. Ensure the flexibility necessary for existing utilities that provide~~
6 ~~energy to enter into a deregulated market;~~
7 ~~4. Foster innovation in the provision of electric services;~~
8 ~~5. Ensure and enhance reliability and safety in the provision of electric~~
9 ~~services;~~
10 ~~6. Provide for flexible mechanisms for regulating electric services; and~~
11 ~~7.] Protect, further and serve the public interest;~~
12 2. Provide effective protection ~~of persons] for customers~~ who depend
13 upon electric ~~services.] service;~~
14 3. *Provide for stability in rates and for the availability and reliability*
15 *of electric service;*
16 4. *Encourage the development and use of renewable energy*
17 *resources; and*
18 5. *Require providers of electric service to engage in prudent business*
19 *management, effective long-term planning, responsible decision making,*
20 *sound fiscal strategies and efficient operations.*
21 **Sec. 6.** NRS 703.320 is hereby amended to read as follows:
22 703.320 1. ~~When, in] In~~ any matter pending before the commission,
23 ~~if~~ a hearing is required by ~~law,] a specific statute~~ or is ~~normally]~~
24 ~~otherwise~~ required by the commission, the commission shall give notice of
25 the pendency of the matter to all persons entitled to notice of the hearing.
26 The commission shall by regulation specify:
27 (a) The manner of giving notice ~~to] in each type of proceeding;~~ and
28 (b) ~~Where not specified by law, the] The~~ persons entitled to notice in
29 each type of proceeding.
30 2. ~~Unless,] The commission may not dispense with a hearing in any~~
31 ~~matter pending before the commission pursuant to sections 8 to 19,~~
32 ~~inclusive, of this act.~~
33 3. *In any other matter pending before the commission, the*
34 *commission may dispense with a hearing and act upon the matter*
35 *pending unless,* within 10 days after the date of the notice of pendency, a
36 person entitled to notice of the hearing files with the commission a request
37 that the hearing be held . ~~to, the commission may dispense with a hearing~~
38 ~~and act upon the matter pending.~~
39 ~~3.] If such~~ a request for a hearing is filed, the commission shall give at
40 least 10 days' notice of the hearing.
41 **Sec. 7.** Chapter 704 of NRS is hereby amended by adding thereto the
42 provisions set forth as sections 8 to 19, inclusive, of this act.
43 **Sec. 8.** *As used in sections 8 to 19, inclusive, of this act, unless the*
44 *context otherwise requires, the words and terms defined in sections 9 to*
45 *17, inclusive, of this act have the meanings ascribed to them in those*
46 *sections.*
47 **Sec. 9.** *"Affiliate" means a person who, directly or indirectly*
48 *through one or more intermediaries, controls, is controlled by or is under*
49 *common control with an electric utility.*



- 1 **Sec. 10.** (Deleted by amendment.)
- 2 **Sec. 11.** *“Consumer’s advocate” means the consumer’s advocate of*
- 3 *the bureau of consumer protection in the office of the attorney general.*
- 4 **Sec. 12.** *“Dispose of a generation asset” means to:*
- 5 1. *Sell, lease, assign, transfer or divest an interest in a generation*
- 6 *asset, in whole or in part, to another person;*
- 7 2. *Execute a contract or agreement to sell, lease, assign, transfer or*
- 8 *divest an interest in a generation asset, in whole or in part, to another*
- 9 *person; or*
- 10 3. *Perform any promise, covenant or obligation to sell, lease, assign,*
- 11 *transfer or divest an interest in a generation asset, in whole or in part, to*
- 12 *another person pursuant to the terms of a contract or agreement unless:*
- 13 (a) *The electric utility executed the contract or agreement before*
- 14 *January 1, 2001;*
- 15 (b) *The commission approved the contract or agreement before*
- 16 *January 1, 2001, if such approval was required; and*
- 17 (c) *The electric utility fully performed the promise, covenant or*
- 18 *obligation to sell, lease, assign, transfer or divest the interest before the*
- 19 *effective date of this act.*
- 20 **Sec. 13.** 1. *“Electric utility” means:*
- 21 (a) *Any public utility or successor in interest that:*
- 22 (1) *Is in the business of providing electric service to customers;*
- 23 (2) *Holds a certificate of public convenience and necessity issued or*
- 24 *transferred pursuant to this chapter; and*
- 25 (3) *In the most recently completed calendar year or in any other*
- 26 *calendar year within the 7 calendar years immediately preceding the*
- 27 *most recently completed calendar year, had a gross operating revenue of*
- 28 *\$250,000,000 or more in the State of Nevada;*
- 29 (b) *A subsidiary or affiliate of such a public utility;*
- 30 (c) *A holding company or other person that holds a controlling*
- 31 *interest in such a public utility; and*
- 32 (d) *A successor in interest to any public utility, subsidiary, affiliate,*
- 33 *holding company or person described in paragraph (a), (b) or (c).*
- 34 2. *The term does not include a cooperative association, nonprofit*
- 35 *corporation, nonprofit association or provider of electric service which is*
- 36 *declared to be a public utility pursuant to NRS 704.673 and which*
- 37 *provides service only to its members.*
- 38 **Sec. 14.** 1. *“Generation asset” means any plant, facility,*
- 39 *equipment or system that:*
- 40 (a) *Converts other forms of energy into electricity or otherwise*
- 41 *produces electricity;*
- 42 (b) *Is located within this state;*
- 43 (c) *Is or was owned, possessed, controlled, leased, operated,*
- 44 *administered, maintained, acquired or placed into service by an electric*
- 45 *utility before, on or after January 1, 2001;*
- 46 (d) *Is subject, in whole or in part, to regulation by the commission;*
- 47 *and*
- 48 (e) *Is used and useful for the convenience of the public, as determined*
- 49 *by the commission.*



2. The term does not include:

(a) Any hydroelectric plant, facility, equipment or system which has a generating capacity of not more than 15 megawatts and which is located on the Truckee River or on a waterway that is appurtenant to or connected to the Truckee River.

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

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

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

Sec. 16. "Person" means:

1. A natural person;

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

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

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

Sec. 17. "Substantial financial emergency" means, with regard to an electric utility, any set of circumstances that:

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

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

(a) Insolvent or subject to any proceeding in bankruptcy; or

(b) Unable to secure credit, fuel or power to such a degree that the electric utility is substantially impaired in its ability to provide reliable electric service to its customers.

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

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

3. On or after July 1, 2003, and before July 1, 2007, an electric utility may file an application to dispose of a generation asset only if the application is based upon a substantial financial emergency. If an electric utility files such an application, the commission may not approve the application unless the electric utility proves a substantial financial emergency by clear and convincing evidence. The commission may base its approval upon such terms, conditions or modifications as the commission deems appropriate.



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1 4. On or after July 1, 2007, an electric utility may file an application
2 to dispose of a generation asset. If an electric utility files such an
3 application, the commission may not approve the application unless the
4 commission finds that disposal of the generation asset will be in the
5 public interest. The commission may base its approval upon such terms,
6 conditions or modifications as the commission deems appropriate.

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

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

13 **Sec. 19.** 1. An electric utility may dispose of its generation assets
14 pursuant to a merger, acquisition or transaction that is authorized
15 pursuant to NRS 704.329 or pursuant to a transfer of its certificate of
16 public convenience and necessity that is authorized pursuant to NRS
17 704.410, if:

18 (a) The other person in the merger, acquisition, transaction or
19 transfer is not a subsidiary or affiliate of the electric utility or a holding
20 company or other person that holds a controlling interest in the electric
21 utility; and

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

25 2. Any person who assumes or has assumed ownership, possession,
26 control, operation, administration or maintenance of a generation asset
27 pursuant to a merger, acquisition, transaction or transfer described in
28 subsection 1 is subject to the provisions of sections 8 to 19, inclusive, of
29 this act.

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

31 704.030 "Public utility" or "utility" does not include:

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

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

38 (a) They serve 25 persons or less; and

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

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



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

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

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

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

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

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

14 704.329 1. Except as otherwise provided in subsection 4, no person
15 may merge with, acquire through a subsidiary or affiliate, or otherwise
16 directly or indirectly obtain control of a public utility doing business in this
17 state or an entity that holds a controlling interest in such a public utility
18 without first submitting to the commission an application for authorization
19 of the proposed transaction and obtaining authorization from the
20 commission pursuant to subsection 2. Any merger, acquisition or change in
21 control in violation of this section is not valid for any purpose.

22 2. Before authorizing the merger, acquisition or change in control of a
23 public utility doing business in this state, the commission shall consider the
24 effect of the proposed transaction. If the commission finds that the
25 proposed merger, acquisition or change in control is in the public interest
26 ~~and~~ *and complies with the provisions of section 19 of this act*, the
27 commission shall authorize the proposed transaction.

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

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

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

36 4. The provisions of this section do not apply to the transfer of stock of
37 a public utility doing business in this state or to the transfer of the stock of
38 an entity holding a controlling interest in such a public utility, if a transfer
39 of not more than 25 percent of the common stock of such a public utility or
40 entity is proposed.

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

42 704.370 1. The commission shall have the power, after hearing, to
43 issue or refuse such certificate of public convenience, or to issue it for the
44 construction of a portion only of the contemplated line, plant or systems, or
45 extension thereof, and may attach thereto such terms and conditions as, in
46 its judgment, the public convenience and necessity may require.

47 2. ~~The~~ *Except as otherwise provided in subsection 3*, the
48 commission, in its discretion ~~and after investigation~~, may dispense with
49 the hearing on the application if, upon the expiration of the time fixed in



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1 the notice thereof, no protest against the granting of the ~~certificate~~
2 *application* has been filed by or on behalf of any interested person.

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

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

6 704.390 1. It ~~shall be~~ *is* unlawful for any public utility to
7 discontinue, modify or restrict service to any city, town, municipality,
8 community or territory theretofore serviced by it, except upon 30 days'
9 notice filed with the commission, specifying in detail the character and
10 nature of the discontinuance or restriction of the service intended, and upon
11 order of the commission, made after hearing, permitting such
12 discontinuance, modification or restriction of service.

13 2. ~~The~~ *Except as otherwise provided in subsection 3, the*
14 *commission*, in its discretion and after investigation, may dispense with
15 the hearing on the application for discontinuance, modification or
16 restriction of service ~~if~~ *if*, upon the expiration of the time fixed in the
17 notice thereof, no protest against the granting of the application has been
18 filed by or on behalf of any interested person.

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

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

22 704.410 1. Any public utility subject to the provisions of NRS
23 ~~704.005~~ *704.001* to 704.751, inclusive, *and sections 8 to 19, inclusive, of*
24 *this act* to which a certificate of public convenience and necessity has been
25 issued pursuant to NRS ~~704.005~~ *704.001* to 704.751, inclusive, *and*
26 *sections 8 to 19, inclusive, of this act* may transfer the certificate to any
27 person qualified under NRS ~~704.005~~ *704.001* to 704.751, inclusive, ~~but~~
28 ~~the~~ *and sections 8 to 19, inclusive, of this act. Such a* transfer is not valid
29 for any purpose until a joint application to make the transfer has been made
30 to the commission by the transferor and the transferee, and the commission
31 has authorized the substitution of the transferee for the transferor. *If the*
32 *transferor is an electric utility, the commission may not authorize the*
33 *transfer unless the transfer complies with the provisions of section 19 of*
34 *this act.*

35 2. The commission ~~may~~ *:*

36 *(a) Shall conduct a hearing on a transfer involving an electric utility.*

37 *(b) May* direct that a hearing be ~~had in the matter of the transfer~~
38 *conducted on a transfer involving any other public utility.* If the
39 commission determines that *such* a hearing should be held, the hearing
40 must be noticed and conducted in the same manner as other contested
41 hearings before the commission.

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

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



1 ~~15.1~~ 3. In determining whether the transfer of a certificate of public
2 convenience and necessity to an applicant transferee should be authorized,
3 the commission must take into consideration:

4 (a) The utility service performed by the transferor and the proposed
5 utility service of the transferee;

6 (b) Other authorized utility services in the territory for which the
7 transfer is sought; and

8 (c) Whether the transferee is fit, willing and able to perform the services
9 of a public utility and whether the proposed operation will be consistent
10 with the legislative policies set forth in NRS ~~704.005~~ 704.001 to 704.751,
11 inclusive ~~+~~

12 ~~6.1~~, and sections 8 to 19, inclusive, of this act.

13 4. The commission may make such amendments, restrictions or
14 modifications in a certificate upon transferring it as the public interest
15 requires.

16 ~~17.1~~ 5. No transfer is valid beyond the life of the certificate transferred.

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

19 **Sec. 25.** NRS 704.961 is hereby amended to read as follows:

20 704.961 The commission ~~{shall expend up to \$500,000}~~ *may expend*
21 *money* from its reserve account to provide education and informational
22 services necessary to educate and inform the residents in this state on
23 issues related to the provision of ~~{competitive}~~ utility services in this state.
24 The commission ~~{shall}~~ *may* contract with an independent person to
25 provide such educational and informational services.

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

27 704.989 1. The commission shall establish portfolio standards for
28 domestic energy that ~~{sets}~~ *set* forth the minimum percentage of the total
29 electricity sold *by electric utilities to retail customers* during each calendar
30 year that must be derived from renewable energy resources. The portfolio
31 standards must:

32 (a) ~~{Be}~~ *On January 1, 2001, be* set at two-tenths of ~~{one}~~ 1 percent of
33 the total amount of electricity ~~{annually consumed by customers}~~
34 *consumed* in this state ~~{as of January 1, 2001}~~.

35 ~~—(b) Be increased biannually thereafter}~~ *by retail customers of electric*
36 *utilities during the immediately preceding calendar year.*

37 (b) *On January 1 of each successive odd-numbered year, be increased*
38 *by two-tenths of {one} 1 percent of the total {annual electric consumption*
39 *by the} amount of electricity consumed in this state by retail customers of*
40 *electric utilities during the immediately preceding calendar year* until the
41 ~~{standard reaches}~~ *portfolio standards reach* a total of 1 percent of the total
42 amount of electricity consumed ~~{+}~~ *in this state by retail customers of*
43 *electric utilities during the immediately preceding calendar year.*

44 (c) Be derived from not less than 50 percent renewable energy
45 resources.

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

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



- 1 2. Each ~~{vertically integrated}~~ electric utility ~~{and alternative seller that~~
2 ~~provides electric service in this state}~~ shall comply with the portfolio
3 ~~{standard}~~ *standards* established by the commission pursuant to this
4 section. At the end of each calendar year, each ~~{vertically integrated}~~
5 electric utility ~~{and alternative seller}~~ shall submit a report, in a format
6 approved by the commission, of the quantity of renewable energy and
7 credits, if applicable, that the *electric* utility ~~{or alternative seller}~~
8 generated, purchased, sold and traded to meet the *portfolio* standards . ~~{of~~
9 ~~the portfolio.}~~
- 10 3. In establishing the portfolio *standards* pursuant to this section, the
11 commission may establish a system of credits pursuant to which an electric
12 utility ~~{and alternative seller}~~ may comply with the provisions of this
13 section. A system of credits must provide that:
- 14 (a) Credits are issued for renewable energy resources for each kilowatt
15 hour of energy which it produces; and
- 16 (b) Holders of credits may trade or sell the credits to other parties.
- 17 4. For the purposes of this section, ~~{a vertically integrated}~~ *an* electric
18 utility which, on January 1, 1997, has 9 percent of its electricity consumed
19 by its customers served by renewable energy resources shall be deemed to
20 be in compliance until January 1, 2005, with the portfolio standards
21 established by the commission pursuant to this section. Between January 1,
22 2005, and December 31, 2009, such ~~{a vertically integrated}~~ *an* electric
23 utility ~~{and its affiliated alternative seller, if any,}~~ shall reach a total of one-
24 half of 1 percent of the amount of electricity consumed by its customers, in
25 annual increments of one-tenth of 1 percent, in solar energy resources for
26 full compliance with the portfolio ~~{standard}~~ *standards* established by the
27 commission pursuant to this section.
- 28 5. ~~{The}~~ *In addition to the report required by subsection 2, each*
29 electric utility ~~{and alternative seller}~~ shall submit a report ~~{to}~~ , *in a*
30 *format approved by* the commission , that provides information relating to
31 the compliance by the ~~{vertically integrated}~~ electric utility ~~{or alternative~~
32 ~~seller}~~ with the requirements of this section. Such reports must be made at
33 least annually, unless the commission by regulation determines that such
34 reports must be made more frequently than annually, and must include
35 clear and concise information that sets forth:
- 36 (a) If the ~~{vertically integrated}~~ electric utility installed a renewable
37 energy system during the period for which the report is being made, the
38 date of installation;
- 39 (b) The capacity of renewable energy systems of the ~~{vertically~~
40 ~~integrated}~~ electric utility ; ~~{or alternative seller;}~~
- 41 (c) The amount of production of energy from the renewable energy
42 systems;
- 43 (d) The portion of the production of energy that is directly derived from
44 renewable energy resources;
- 45 (e) The quantity of energy from renewable energy systems that is
46 transmitted or distributed, or both, to customers in this state by the
47 ~~{vertically integrated}~~ electric utility ; ~~{or alternative seller;}~~ and
- 48 (f) Such other information that the commission by regulation may deem
49 relevant.



1 6. ~~Nothing in this section applies~~ *The provisions of this section do*
2 *not apply* to:
3 (a) Rural electric cooperatives established pursuant to chapter 81 of
4 NRS;
5 (b) General improvement districts established pursuant to chapter 318
6 of NRS; or
7 (c) Utilities established pursuant to chapter 709 or 710 of NRS.
8 7. As used in this section:
9 (a) *"Electric utility" has the meaning ascribed to it in section 13 of*
10 *this act.*
11 (b) "Renewable energy resources" means wind, solar, geothermal and
12 biomass energy resources in this state that are naturally regenerated.
13 ~~(b)~~ (c) "Renewable energy system" means an energy system in this
14 state that utilizes renewable energy resources to produce electricity or solar
15 thermal energy systems that reduce the consumption of electricity that was
16 installed and commenced operations after July 1, 1997.
17 Sec. 27. (Deleted by amendment.)
18 Sec. 28. NRS 228.360 is hereby amended to read as follows:
19 228.360 The consumer's advocate ~~may~~ *:*
20 1. *Shall intervene in and represent the public interest in all*
21 *proceedings conducted pursuant to sections 8 to 19, inclusive, of this act.*
22 2. *May*, with respect to all public utilities except railroads and
23 cooperative utilities, and except as provided in NRS 228.380:
24 ~~(a)~~ (a) Conduct or contract for studies, surveys, research or expert
25 testimony relating to matters affecting the public interest or the interests of
26 utility customers.
27 ~~(b)~~ (b) Examine any books, accounts, minutes, records or other papers
28 or property of any public utility subject to the regulatory authority of the
29 public utilities commission of Nevada in the same manner and to the same
30 extent as authorized by law for members of the public utilities commission
31 of Nevada and its staff.
32 ~~(3. Petition)~~
33 (c) *Except as otherwise provided in subsection 1, petition* for, request,
34 initiate, appear or intervene in any proceeding concerning rates, charges,
35 tariffs, modifications of service or any related matter before the public
36 utilities commission of Nevada or any court, regulatory body, board,
37 commission or agency having jurisdiction over any matter which the
38 consumer's advocate may bring before or has brought before the public
39 utilities commission of Nevada or in which the public interest or the
40 interests of any particular class of utility customers are involved. The
41 consumer's advocate may represent the public interest or the interests of
42 any particular class of utility customers in any such proceeding, and he is a
43 real party in interest in the proceeding.
44 Sec. 29. NRS 228.390 is hereby amended to read as follows:
45 228.390 *Except as otherwise provided in sections 8 to 19, inclusive,*
46 *of this act:*
47 1. The consumer's advocate has sole discretion to represent or refrain
48 from representing the public interest and any class of customers in any
49 proceeding.



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

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

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

12 538.181 1. The commission shall hold and administer all rights and
13 benefits pertaining to the distribution of the power and water mentioned in
14 NRS 538.041 to 538.251, inclusive, for the State of Nevada ~~and~~ and, except
15 as otherwise provided in NRS 538.186, may enter into contracts relating to
16 that power and water, including the transmission and other distribution
17 services, on such terms as the commission determines.

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

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

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

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

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

41 (b) Any agreement by the commission to sell short-term or interruptible
42 power on short notice for immediate acceptance to a holder of a long-term
43 firm contract with the state for power who can take delivery of the short-
44 term or interruptible power when it is available.

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



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

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

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

11 (b) Water for distribution or exchange, and any subsequent distribution
12 or exchange of water by any entity to which or with which the commission
13 has contracted the water,

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

15 **Sec. 31.** 1. NRS 704.965, 704.966, 704.967, 704.968, 704.969,
16 704.970, 704.971, 704.972, 704.973, 704.974, 704.975, 704.976, 704.977,
17 704.978, 704.979, 704.980, 704.981, 704.982, 704.9823, 704.9826,
18 704.9829, 704.983, 704.984, 704.985, 704.986, 704.9865, 704.987,
19 704.988 and 704.990 are hereby repealed.

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

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

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

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

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

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

41 (c) If any action taken pursuant to paragraph (b) is unsuccessful, take all
42 appropriate legal action to challenge any order or directive issued by the
43 Federal Energy Regulatory Commission or any other officer, agency or
44 department of the Federal Government that authorizes or requires an
45 electric utility to dispose of any generation asset, if such an order or
46 directive could be interpreted as being in conflict with or preempting the
47 provisions of this act; and



1 (d) Take any other action or issue any other orders necessary to carry
2 out the provisions of this act.

3 2. Notwithstanding any other provision of law, the public utilities
4 commission of Nevada is hereby empowered and authorized to take any
5 action or to issue any orders necessary to carry out the provisions of this
6 act.

7 **Sec. 33.** Any license issued to an alternative seller pursuant to NRS
8 704.977 is void on and after the effective date of this act.

9 **Sec. 34.** This act becomes effective upon passage and approval.

LEADLINES OF REPEALED SECTIONS

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.

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.



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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.

704.990 Commission to prepare for legislature quarterly report assessing developments in electric industry.



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TEXT OF REPEALED SECTIONS

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.



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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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