

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; requiring certain electric utilities to use deferred accounting under certain circumstances; 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; establishing certain requirements and making various changes relating to the rates charged by certain electric utilities; requiring certain entities to obtain approval from the commission before carrying out certain transactions; 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 a
6 determination was made that a later date was necessary to protect the
7 public interest; and

8 WHEREAS, On several occasions, a determination has been made that
9 commencement of retail competition in the electric industry is not yet in
10 the public interest of this state; and

11 WHEREAS, Many residents of this state are senior citizens whose health
12 is especially vulnerable to extreme heat and extreme cold and who rely on
13 electricity to provide safe temperatures in their homes; and

14 WHEREAS, In arid regions of this state, there are many population
15 centers that cannot be sustained without electricity to pump potable
16 drinking water; and

17 WHEREAS, Several of the major industries in this state are particularly
18 dependent upon electricity; and



1 WHEREAS, Under present market conditions in the electric industry,
2 comprehensive and effective regulation of electric utilities in this state is
3 vital to the economy of this state and is essential to protect the health,
4 safety and welfare of the residents of this state; and

5 WHEREAS, Until present market conditions have changed and adequate
6 mechanisms have been developed to allow this state to adjust its
7 comprehensive regulation of electric utilities in Nevada, this state has a
8 compelling interest in continuing its comprehensive regulation of electric
9 utilities to protect the consumers in this state, to safeguard the economy of
10 this state and to ensure that the electric utilities in this state provide
11 adequate and reliable electric service at just and reasonable prices; and

12 WHEREAS, As part of its comprehensive regulation of electric utilities in
13 Nevada, this state has traditionally exercised its inherent jurisdiction over
14 electric generation assets which have been dedicated to serve the public
15 convenience and necessity in Nevada and which are used and useful for the
16 convenience of the public in Nevada; and

17 WHEREAS, To control volatility in the price of electricity in the retail
18 market and to ensure that the electric utilities in this state have necessary
19 and sufficient resources to provide adequate and reliable electric service
20 under present market conditions, this state must retain its traditional
21 jurisdiction and control over electric generation assets until other
22 mechanisms are available to accomplish these goals; and

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

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

31 WHEREAS, Until the severe and ongoing crisis in the electric industry in
32 the western United States has sufficiently abated, this state must maintain
33 its comprehensive regulation over electric utilities and its traditionally
34 broad jurisdiction and control over electric generation assets to promote
35 stability and predictability in the electric industry, to foster confidence in
36 the financial markets, to ensure that consumers have adequate and reliable
37 electric service and to protect the public from unjust and unreasonable
38 utility rates; now, therefore,

39
40 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
41 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
42

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

44 703.010 As used in this chapter, unless the context otherwise requires:

45 1. "Alternative seller" ~~has the meaning ascribed to it in NRS~~
46 ~~704.967.~~ *means a person who sells any competitive, discretionary or*
47 *potentially competitive component of natural gas service pursuant to*
48 *NRS 704.993 to 704.999, inclusive.*

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



1 **Sec. 2.** NRS 703.025 is hereby amended to read as follows:
2 703.025 1. The commission, by majority vote, shall organize the
3 commission into sections, alter the organization of the commission and
4 reassign responsibilities and duties of the sections of the commission as the
5 commission deems necessary to provide:

6 (a) Advice and guidance to the commission on economic policies
7 relating to utilities under the jurisdiction of the commission, and the
8 regulation of such utilities;

9 (b) Administrative, technical, legal and support services to the
10 commission; and

11 (c) For the regulation of utilities governed by the commission and the
12 services offered by such utilities, including, but not limited to, licensing of
13 such utilities and services and the resolution of consumer complaints.

14 2. The commission shall:

15 (a) Formulate the policies of the various sections of the commission;

16 (b) Coordinate the activities of the various sections of the commission;

17 (c) ~~Take such~~ *If customers are authorized by a specific statute to*
18 *obtain a competitive, discretionary or potentially competitive utility*
19 *service, take any* actions *which are* consistent with ~~law as~~ *the statute and*
20 *which* are necessary to encourage and enhance:

21 (1) A competitive market for the provision of *that* utility ~~services~~
22 *service* to customers in this state; and

23 (2) The reliability and safety of the provision of ~~those services~~ *that*
24 *utility service* within that competitive market; and

25 (d) Adopt such regulations consistent with law as the commission
26 deems necessary for the operation of the commission and the enforcement
27 of all laws administered by the commission.

28 3. Before reorganizing the commission, the commission shall submit
29 the plan for reorganization to:

30 (a) The director of the legislative counsel bureau for transmittal to the
31 appropriate legislative committee and the interim finance committee; and

32 (b) The director of the department of administration.

33 **Sec. 3.** NRS 703.130 is hereby amended to read as follows:

34 703.130 1. The commission shall appoint a deputy commissioner
35 who shall serve in the unclassified service of the state.

36 2. The commission shall appoint a secretary who shall perform such
37 administrative and other duties as are prescribed by the commission. The
38 commission shall also appoint an assistant secretary.

39 3. The commission may employ such other clerks, experts or engineers
40 as may be necessary.

41 4. ~~The commission may~~ *Except as otherwise provided in subsection*
42 *5, the commission:*

43 (a) *May* appoint one or more hearing officers for a period specified by
44 the commission to conduct proceedings or hearings that may be conducted
45 by the commission pursuant to chapters 704, 704A, 705, 708 and 711 of
46 NRS. ~~The commission shall~~

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



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1 ***5. The commission shall not appoint a hearing officer to conduct***
2 ***proceedings or hearings pursuant to sections 8 to 18, inclusive, of this***
3 ***act.***

4 **Sec. 4.** NRS 703.151 is hereby amended to read as follows:

5 703.151 In adopting regulations pursuant to this Title relating to the
6 provision of electric service, the commission shall ensure that the
7 regulations:

8 1. ~~1. Maximize the benefits of a competitive marketplace for the~~
9 ~~provision of electric services;~~

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

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

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

15 ~~5. Ensure and enhance reliability and safety in the provision of electric~~
16 ~~services;~~

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

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

19 2. Provide effective protection ~~for persons~~ **for customers** who depend
20 upon electric ~~services~~ **service**;

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

23 4. **Encourage the development and use of renewable energy**
24 **resources; and**

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

28 **Sec. 5.** NRS 703.320 is hereby amended to read as follows:

29 703.320 1. ~~When, in~~ **In** any matter pending before the commission,
30 **if** a hearing is required by ~~law~~ **a specific statute** or is ~~normally~~
31 **otherwise** required by the commission, the commission shall give notice of
32 the pendency of the matter to all persons entitled to notice of the hearing.
33 The commission shall by regulation specify:

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

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

37 2. ~~Unless~~ **The commission shall not dispense with a hearing in any**
38 **matter pending before the commission pursuant to sections 8 to 18,**
39 **inclusive, of this act.**

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

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

48 **Sec. 6.** Chapter 704 of NRS is hereby amended by adding thereto the
49 provisions set forth as sections 7 to 19, inclusive, of this act.



- 1 **Sec. 7.** *As used in this section and NRS 704.330 to 704.430,*
2 *inclusive, unless the context otherwise requires, "electric utility" has the*
3 *meaning ascribed to it in section 12 of this act.*
- 4 **Sec. 8.** *As used in sections 8 to 18, inclusive, of this act, unless the*
5 *context otherwise requires, the words and terms defined in sections 9 to*
6 *15, inclusive, of this act have the meanings ascribed to them in those*
7 *sections.*
- 8 **Sec. 9.** *"Affiliate" means a person who, directly or indirectly*
9 *through one or more intermediaries, controls, is controlled by or is under*
10 *common control with an electric utility.*
- 11 **Sec. 10.** *"Consumer's advocate" means the consumer's advocate of*
12 *the bureau of consumer protection in the office of the attorney general.*
- 13 **Sec. 11.** *"Dispose of a generation asset" means to:*
14 1. *Sell, lease, assign, transfer or divest an interest in a generation*
15 *asset, in whole or in part, to another person; or*
16 2. *Perform any promise, covenant or obligation to sell, lease, assign,*
17 *transfer or divest an interest in a generation asset, in whole or in part, to*
18 *another person pursuant to the terms of a contract or agreement*
19 *executed before, on or after the effective date of this act unless, before*
20 *the effective date of this act:*
21 (a) *All terms and conditions of the contract or agreement were*
22 *satisfied; and*
23 (b) *All parties to the contract or agreement fully performed all*
24 *promises, covenants and obligations under the contract or agreement.*
- 25 **Sec. 12.** 1. *"Electric utility" means:*
26 (a) *Any public utility or successor in interest that:*
27 (1) *Is in the business of providing electric service to customers;*
28 (2) *Holds a certificate of public convenience and necessity issued or*
29 *transferred pursuant to this chapter; and*
30 (3) *In the most recently completed calendar year or in any other*
31 *calendar year within the 7 calendar years immediately preceding the*
32 *most recently completed calendar year, had a gross operating revenue of*
33 *\$250,000,000 or more in this state;*
34 (b) *A subsidiary or affiliate of such a public utility;*
35 (c) *A holding company or other person that holds a controlling*
36 *interest in such a public utility; and*
37 (d) *A successor in interest to any public utility, subsidiary, affiliate,*
38 *holding company or person described in paragraph (a), (b) or (c).*
- 39 2. *The term does not include a cooperative association, nonprofit*
40 *corporation, nonprofit association or provider of electric service which is*
41 *declared to be a public utility pursuant to NRS 704.673 and which*
42 *provides service only to its members.*
- 43 **Sec. 13.** 1. *"Generation asset" means any plant, facility,*
44 *equipment or system that:*
45 (a) *Converts other forms of energy into electricity or otherwise*
46 *produces electricity;*
47 (b) *Is or was owned, possessed, controlled, leased, operated,*
48 *administered, maintained, acquired or placed into service by an electric*
49 *utility before, on or after January 1, 2001;*



1 (c) Is subject, in whole or in part, to regulation by the commission;
2 and

3 (d) Is used and useful for the convenience of the public in this state,
4 as determined by the commission.

5 2. The term does not include:

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

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

11 **Sec. 14.** 1. "Interest in a generation asset" means any interest, in
12 whole or in part, in the physical plant, facility, equipment or system that
13 makes up the generation asset, whether such interest is legal or
14 equitable, present or future, or contingent or vested.

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

17 **Sec. 15.** "Person" means:

18 1. A natural person;

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

23 3. A government or an agency or instrumentality of a government,
24 including, without limitation, this state or an agency or instrumentality
25 of this state; and

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

29 **Sec. 16.** Except as otherwise provided in section 17 of this act:

30 1. Before July 1, 2003, an electric utility shall not dispose of a
31 generation asset.

32 2. On or after July 1, 2003, an electric utility shall not dispose of a
33 generation asset unless, before the disposal, the commission approves the
34 disposal by a written order issued in accordance with the provisions of
35 this section.

36 3. Not sooner than January 1, 2003, an electric utility may file with
37 the commission an application to dispose of a generation asset on or
38 after July 1, 2003. If an electric utility files such an application, the
39 commission shall not approve the application unless the commission
40 finds that the disposal of the generation asset will be in the public
41 interest. The commission shall issue a written order approving or
42 disapproving the application. The commission may base its approval of
43 the application upon such terms, conditions or modifications as the
44 commission deems appropriate.

45 4. If an electric utility files an application to dispose of a generation
46 asset, the consumer's advocate shall be deemed a party of record.

47 5. If the commission approves an application to dispose of a
48 generation asset before July 1, 2003, the order of the commission
49 approving the application:



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1 (a) May not become effective sooner than July 1, 2003;
2 (b) Does not create any vested rights before the effective date of the
3 order; and

4 (c) For the purposes of NRS 703.373, shall be deemed a final decision
5 on the date on which the order is issued by the commission.

6 **Sec. 17.** 1. An electric utility may dispose of its generation assets
7 pursuant to a merger, acquisition or transaction that is authorized
8 pursuant to NRS 704.329 or pursuant to a transfer of its certificate of
9 public convenience and necessity that is authorized pursuant to NRS
10 704.410, if:

11 (a) The electric utility disposes of substantially all of its generation
12 assets and substantially all of its other assets to the other person in the
13 merger, acquisition, transaction or transfer; and

14 (b) The other person in the merger, acquisition, transaction or
15 transfer is not a subsidiary or affiliate of the electric utility or a holding
16 company or other person that holds a controlling interest in the electric
17 utility.

18 2. Any person who assumes or has assumed ownership, possession,
19 control, operation, administration or maintenance of a generation asset
20 pursuant to a merger, acquisition, transaction or transfer described in
21 subsection 1 is subject to the provisions of sections 8 to 18, inclusive, of
22 this act.

23 **Sec. 18.** If an electric utility disposes of a generation asset in
24 violation of sections 8 to 18, inclusive, of this act, the disposal is void and
25 unenforceable and is not valid for any purpose.

26 **Sec. 19.** 1. Except as otherwise provided in section 36 of this act,
27 beginning on March 1, 2001, an electric utility that purchases fuel or
28 power shall use deferred accounting by recording upon its books and
29 records in deferred accounts all increases and decreases in costs for
30 purchased fuel and purchased power that are prudently incurred by the
31 electric utility.

32 2. An electric utility using deferred accounting shall include in its
33 annual report to the commission a statement showing, for the period of
34 recovery, the allocated rate of return for each of its operating
35 departments in this state using deferred accounting. If, during the period
36 of recovery, the rate of return for any operating department using
37 deferred accounting is greater than the rate of return authorized by the
38 commission in the most recently completed rate proceeding for the
39 electric utility, the commission shall order the electric utility that
40 recovered costs for purchased fuel or purchased power through its rates
41 during the reported period to transfer to the next energy adjustment
42 period that portion of the amount recovered by the electric utility that
43 exceeds the authorized rate of return.

44 3. Except as otherwise provided in subsection 4, an electric utility
45 using deferred accounting shall file an application to clear its deferred
46 accounts after the end of each 12-month period of deferred accounting.

47 4. An electric utility using deferred accounting may file an
48 application to clear its deferred accounts after the end of a 6-month
49 period of deferred accounting if the net increase or decrease in revenues



1 *necessary to clear its deferred accounts for the 6-month period is more*
2 *than 5 percent of the total revenues generated by the electric utility*
3 *during that period from its rates for purchased fuel and purchased power*
4 *most recently authorized by the commission.*

5 *5. The commission shall adopt regulations prescribing the period*
6 *within which an electric utility must file an application to clear its*
7 *deferred accounts after the end of a period of deferred accounting.*

8 *6. As used in this section:*

9 *(a) "Application to clear its deferred accounts" means an application*
10 *filed by an electric utility pursuant to this section and subsection 7 of*
11 *NRS 704.110.*

12 *(b) "Costs for purchased fuel and purchased power" means all costs*
13 *which are prudently incurred by an electric utility and which are*
14 *required to purchase fuel, to purchase capacity and to purchase energy.*
15 *The term does not include any costs that the commission determines are*
16 *not recoverable pursuant to subsection 8 of NRS 704.110.*

17 *(c) "Electric utility" means any public utility or successor in*
18 *interest that:*

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

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

22 *(3) In the most recently completed calendar year or in any other*
23 *calendar year within the 7 calendar years immediately preceding the*
24 *most recently completed calendar year, had a gross operating revenue of*
25 *\$250,000,000 or more in this state.*

26 *The term does not include a cooperative association, nonprofit*
27 *corporation, nonprofit association or provider of electric service which is*
28 *declared to be a public utility pursuant to NRS 704.673 and which*
29 *provides service only to its members.*

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.



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 704.110 is hereby amended to read as follows:

14 704.110 Except as otherwise provided in NRS 704.075 or as otherwise
15 provided by the commission pursuant to NRS 704.095 or 704.097:

16 1. Whenever there is filed with the commission any schedule stating a
17 new or revised individual or joint rate or charge, or any new or revised
18 individual or joint regulation or practice affecting any rate or charge, or
19 any schedule resulting in a discontinuance, modification or restriction of
20 service, the commission may, upon complaint or upon its own motion
21 without complaint, at once, without answer or formal pleading by the
22 interested utility, investigate or, upon reasonable notice, conduct a hearing
23 concerning the propriety of the rate, charge, classification, regulation,
24 discontinuance, modification, restriction or practice.

25 2. Pending the investigation or hearing and the decision thereon, the
26 commission, upon delivering to the utility affected thereby a statement in
27 writing of its reasons for the suspension, may suspend the operation of the
28 schedule and defer the use of the rate, charge, classification, regulation,
29 discontinuance, modification, restriction or practice . ~~but~~ *If the rate,*
30 *charge, classification, regulation, discontinuance, modification,*
31 *restriction or practice is part of:*

32 *(a) A filing made pursuant to subsection 7, the suspension must not be*
33 *effective for more than 90 days beyond the time when the rate, charge,*
34 *classification, regulation, discontinuance, modification, restriction or*
35 *practice would otherwise go into effect.*

36 *(b) Any other filing made pursuant to this section, the suspension*
37 *must not be effective* for more than 150 days beyond the time when the
38 rate, charge, classification, regulation, discontinuance, modification,
39 restriction or practice would otherwise go into effect.

40 3. Whenever there is filed with the commission any schedule stating an
41 increased individual or joint rate or charge for service or equipment, the
42 public utility shall submit with its application a statement showing the
43 recorded results of revenues, expenses, investments and costs of capital for
44 its most recent 12 months for which data were available when the
45 application was prepared. During any hearing concerning the increased
46 rates or charges determined by the commission to be necessary, the
47 commission shall consider evidence in support of the increased rates or
48 charges based upon actual recorded results of operations for the same 12
49 months, adjusted for increased revenues, any increased investment in



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1 facilities, increased expenses for depreciation, certain other operating
2 expenses as approved by the commission and changes in the costs of
3 securities which are known and are measurable with reasonable accuracy at
4 the time of filing and which will become effective within 6 months after
5 the last month of those 12 months, but no new rates or charges may be
6 placed into effect until the changes have been experienced and certified by
7 the utility to the commission. The commission shall also consider evidence
8 supporting expenses for depreciation, calculated on an annual basis,
9 applicable to major components of the public utility's plant placed into
10 service during the recorded test period or the period for certification as set
11 forth in the application. Adjustments to revenues, operating expenses and
12 costs of securities must be calculated on an annual basis. Within 90 days
13 after the filing with the commission of the certification required in this
14 subsection, or before the expiration of any period of suspension ordered
15 pursuant to subsection 2, whichever time is longer, the commission shall
16 make such order in reference to those rates or charges as is required by this
17 chapter. *An electric utility shall file a general rate application pursuant to*
18 *this subsection at least once every 24 months.*

19 4. After full investigation or hearing, whether completed before or
20 after the date upon which the rate, charge, classification, regulation,
21 discontinuance, modification, restriction or practice is to go into effect, the
22 commission may make such order in reference to the rate, charge,
23 classification, regulation, discontinuance, modification, restriction or
24 practice as would be proper in a proceeding initiated after the rate, charge,
25 classification, regulation, discontinuance, modification, restriction or
26 practice has become effective.

27 5. Except as otherwise provided in subsection 6, whenever a general
28 rate application for an increased rate or charge for, or classification,
29 regulation, discontinuance, modification, restriction or practice involving
30 service or equipment has been filed with the commission, a public utility
31 shall not submit another general rate application until all pending general
32 rate applications for increases in rates submitted by that public utility have
33 been decided unless, after application and hearing, the commission
34 determines that a substantial financial emergency would exist if the other
35 application is not permitted to be submitted sooner.

36 6. A public utility may ~~not~~ file an application to recover the
37 increased cost of purchased fuel, purchased power, or natural gas
38 purchased for resale ~~more often than~~ once every 30 days. *The provisions*
39 *of this subsection do not apply to an electric utility using deferred*
40 *accounting pursuant to section 19 of this act.*

41 7. *Except as otherwise provided in subsection 8, whenever an electric*
42 *utility using deferred accounting pursuant to section 19 of this act files*
43 *an application to clear its deferred accounts and to change one or more*
44 *of its rates or charges based upon changes in the costs for purchased fuel*
45 *or purchased power, the commission, after a public hearing and by an*
46 *appropriate order:*



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1 (a) Shall allow the electric utility to clear its deferred accounts by
2 refunding any credit balance or recovering any debit balance over a
3 period not to exceed 3 years, as determined by the commission.

4 (b) Shall not allow the electric utility to recover any debit balance, or
5 portion thereof, in an amount that would result in a rate of return during
6 the period of recovery that exceeds the rate of return authorized by the
7 commission in the most recently completed rate proceeding for the
8 electric utility.

9 8. Before allowing an electric utility to clear its deferred accounts
10 pursuant to subsection 7, the commission shall determine whether the
11 costs for purchased fuel and purchased power that the electric utility
12 recorded in its deferred accounts are recoverable and whether the
13 revenues that the electric utility collected from customers in this state for
14 purchased fuel and purchased power are properly recorded and credited
15 in its deferred accounts. The commission shall not allow the electric
16 utility to recover any costs for purchased fuel and purchased power that:

17 (a) Were not necessary to provide electric service to customers in this
18 state, including, without limitation, any costs required to purchase
19 capacity or energy which was not used by the electric utility to provide
20 electric service to customers in this state but which was resold by the
21 electric utility at wholesale;

22 (b) Were the result of any practice or transaction that was undertaken,
23 managed or performed imprudently by the electric utility; or

24 (c) Were part of, associated with or related to any transaction or
25 interaction with a subsidiary or affiliate of the electric utility or an entity
26 that holds a controlling interest in the electric utility and were not
27 necessary to provide electric service to customers in this state.

28 The commission shall not credit any revenues to the deferred accounts of
29 the electric utility which were not earned or generated from providing
30 electric service to customers in this state or which were part of,
31 associated with or related to any transaction or interaction with a
32 subsidiary or affiliate of the electric utility or an entity that holds a
33 controlling interest in the electric utility and were not earned or
34 generated from providing electric service to customers in this state.

35 9. Whenever an electric utility files an application to clear its
36 deferred accounts pursuant to subsection 7 while a general rate
37 application is pending, the electric utility shall:

38 (a) Submit with its application to clear its deferred accounts
39 information relating to the cost of service and rate design; and

40 (b) Supplement its general rate application with the same information,
41 if such information was not submitted with the general rate application.

42 10. A utility facility identified in a 3-year plan submitted pursuant to
43 NRS 704.741 and accepted by the commission for acquisition or



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1 construction pursuant to NRS 704.751 and the regulations adopted
2 pursuant thereto shall be deemed to be a prudent investment. The utility
3 may recover all just and reasonable costs of planning and constructing such
4 a facility.

5 *11. As used in this section, "electric utility" has the meaning*
6 *ascribed to it in section 19 of this act.*

7 **Sec. 22.** NRS 704.329 is hereby amended to read as follows:

8 704.329 1. Except as otherwise provided in ~~{subsection 4, no person~~
9 ~~may}~~ *this section, a person shall not* merge with, *directly acquire,*
10 *indirectly* acquire through a subsidiary or affiliate, or otherwise directly or
11 indirectly obtain control of a public utility doing business in this state or an
12 entity that holds a controlling interest in such a public utility without first
13 submitting to the commission an application for authorization of the
14 proposed *merger, acquisition or other* transaction and obtaining
15 authorization from the commission. ~~{pursuant to subsection 2.}~~

16 2. Any merger, acquisition or ~~{change in control in violation}~~ *other*
17 *transaction that violates the provisions* of this section *is void and*
18 *unenforceable and* is not valid for any purpose.

19 ~~{2.}~~ 3. Before authorizing ~~{the}~~ *a proposed* merger, acquisition or
20 ~~{change in control of a public utility doing business in this state.}~~ *other*
21 *transaction pursuant to this section,* the commission shall consider the
22 effect of the proposed *merger, acquisition or other* transaction ~~{.4.}~~ *on the*
23 *public interest and the customers in this state. The commission shall not*
24 *authorize the proposed merger, acquisition or other transaction unless*
25 the commission finds that the proposed merger, acquisition or ~~{change in~~
26 ~~control is}~~ *other transaction:*

27 (a) *Will be* in the public interest ~~{, the commission shall authorize the~~
28 ~~proposed transaction.~~
29 ~~—3.}~~ *; and*

30 (b) *Complies with the provisions of sections 8 to 18, inclusive, of this*
31 *act, if the proposed merger, acquisition or other transaction is subject to*
32 *those provisions.*

33 4. *The commission may base its authorization of the proposed*
34 *merger, acquisition or other transaction upon such terms, conditions or*
35 *modifications as the commission deems appropriate.*

36 5. If the commission does not issue a final ~~{determination}~~ *order*
37 regarding the proposed *merger, acquisition or other* transaction within 180
38 days after the date on which an application or amended application for
39 authorization of the proposed *merger, acquisition or other* transaction was
40 filed with the commission, *and the proposed merger, acquisition or other*
41 *transaction is not subject to the provisions of sections 8 to 18, inclusive,*
42 *of this act, the proposed merger, acquisition or other* transaction shall be
43 deemed ~~{approved.}~~ *to be authorized by the commission.*

44 ~~{4.}~~ 6. The provisions of this section do not apply to the transfer of
45 stock of a public utility doing business in this state or to the transfer of the
46 stock of an entity holding a controlling interest in such a public utility, if a
47 transfer of not more than 25 percent of the common stock of such a public
48 utility or entity is proposed.



1 **Sec. 23.** NRS 704.370 is hereby amended to read as follows:

2 704.370 1. The commission shall have the power, after hearing, to
3 issue or refuse such certificate of public convenience, or to issue it for the
4 construction of a portion only of the contemplated line, plant or systems, or
5 extension thereof, and may attach thereto such terms and conditions as, in
6 its judgment, the public convenience and necessity may require.

7 2. ~~The~~ *Except as otherwise provided in subsection 3, the*
8 commission, in its discretion ~~if~~ *and after investigation*, may dispense with
9 the hearing on the application if, upon the expiration of the time fixed in
10 the notice thereof, no protest against the granting of the ~~certificate~~
11 *application* has been filed by or on behalf of any interested person.

12 3. *The commission shall not dispense with the hearing on the*
13 *application of an electric utility.*

14 **Sec. 24.** NRS 704.390 is hereby amended to read as follows:

15 704.390 1. It ~~shall be~~ *is* unlawful for any public utility to
16 discontinue, modify or restrict service to any city, town, municipality,
17 community or territory theretofore serviced by it, except upon 30 days'
18 notice filed with the commission, specifying in detail the character and
19 nature of the discontinuance or restriction of the service intended, and upon
20 order of the commission, made after hearing, permitting such
21 discontinuance, modification or restriction of service.

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

28 3. *The commission shall not dispense with the hearing on the*
29 *application of an electric utility.*

30 **Sec. 25.** NRS 704.410 is hereby amended to read as follows:

31 704.410 1. Any public utility subject to the provisions of NRS
32 ~~704.005~~ *704.001* to 704.751, inclusive, *and sections 8 to 18, inclusive, of*
33 *this act* to which a certificate of public convenience and necessity has been
34 issued pursuant to NRS ~~704.005~~ *704.001* to 704.751, inclusive, *and*
35 *sections 8 to 18, inclusive, of this act* may transfer the certificate to any
36 person qualified under NRS ~~704.005~~ *704.001* to 704.751, inclusive, ~~but~~
37 ~~the~~ *and sections 8 to 18, inclusive, of this act. Such a transfer is void and*
38 *unenforceable and is* not valid for any purpose ~~until a~~ *unless*:

39 (a) A joint application to make the transfer has been made to the
40 commission by the transferor and the transferee ~~and the~~ ; and

41 (b) *The* commission has authorized the substitution of the transferee for
42 the transferor. *If the transferor is an electric utility, the commission shall*
43 *not authorize the transfer unless the transfer complies with the*
44 *provisions of sections 8 to 18, inclusive, of this act.*

45 2. The commission ~~may~~ :

46 (a) *Shall conduct a hearing on a transfer involving an electric utility.*
47 *The hearing must be noticed and conducted in the same manner as other*
48 *contested hearings before the commission.*



1 (b) *May* direct that a hearing be ~~had in the matter of the transfer.~~
2 *conducted on a transfer involving any other public utility.* If the
3 commission determines that *such* a hearing should be held, the hearing
4 must be noticed and conducted in the same manner as other contested
5 hearings before the commission.
6 ~~3. The commission has the sole discretion to direct that a hearing be~~
7 ~~held if the application seeks to transfer the certificate from a person or~~
8 ~~partners to a corporation when the officers of the corporation will be~~
9 ~~substantially the same person or partners.~~
10 ~~4.~~ The commission may dispense with *such* a hearing if, upon the
11 expiration of the time fixed in the notice thereof, no protest to the proposed
12 transfer has been filed by or on behalf of any interested person.
13 ~~5.~~ 3. In determining whether the transfer of a certificate of public
14 convenience and necessity to an applicant transferee should be authorized,
15 the commission must take into consideration:
16 (a) The utility service performed by the transferor and the proposed
17 utility service of the transferee;
18 (b) Other authorized utility services in the territory for which the
19 transfer is sought; ~~and~~
20 (c) Whether the transferee is fit, willing and able to perform the services
21 of a public utility and whether the proposed operation will be consistent
22 with the legislative policies set forth in NRS ~~704.005~~ *704.001* to 704.751,
23 inclusive ~~+~~
24 ~~6.~~, and sections 8 to 18, inclusive, of this act; and
25 (d) *Whether the transfer will be in the public interest.*
26 4. The commission may make such amendments, restrictions or
27 modifications in a certificate upon transferring it as the public interest
28 requires.
29 ~~7.~~ 5. No transfer is valid beyond the life of the certificate transferred.
30 **Sec. 26.** NRS 704.430 is hereby amended to read as follows:
31 704.430 1. Any person, firm, association or corporation who ~~shall~~
32 ~~violate~~ *violates* any provisions of NRS 704.330 to ~~704.410,~~ *704.430*,
33 inclusive, *and section 7 of this act* shall be punished by a fine of not more
34 than \$250.
35 2. Each day's operation without a certificate as provided in NRS
36 704.330 to ~~704.410,~~ *704.430*, inclusive, *and section 7 of this act* or each
37 day that service is discontinued, modified or restricted, as defined in
38 NRS 704.330 to ~~704.410, inclusive, shall~~ *704.430, inclusive, and section*
39 *7 of this act must* be considered a separate offense.
40 **Sec. 27.** NRS 704.961 is hereby amended to read as follows:
41 704.961 The commission ~~shall expend up to \$500,000~~ *may expend*
42 *money* from its reserve account to provide education and informational
43 services necessary to educate and inform the residents in this state on
44 issues related to the provision of ~~competitive~~ utility services in this state.
45 The commission ~~shall~~ *may* contract with an independent person to
46 provide such educational and informational services.



1 **Sec. 28.** 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 *amount of electricity sold by an electric utility to its retail customers in*
5 *this state* during each calendar year that must be derived from renewable
6 energy resources. The portfolio 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~~ *sold by the electric*
9 *utility to its retail* customers in this state ~~as of January 1, 2001.~~

10 ~~—(b) Be increased biannually thereafter~~ *during the immediately*
11 *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 *amount of electricity sold by the electric utility to its retail* customers *in*
15 *this state 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~~ *sold by the electric utility to its retail*
18 *customers in this state 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 ~~for 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 electric~~
41 ~~utility which, if,~~ on January 1, 1997, ~~has~~ *at least* 9 percent of ~~its~~
42 ~~electricity consumed by~~ *the total amount of electricity sold by an electric*
43 *utility to its retail* customers ~~served by~~ *in this state during the*
44 *immediately preceding calendar year was derived from* renewable energy
45 resources, *the electric utility* shall be deemed to be in compliance until
46 January 1, 2005, with the portfolio standards established by the
47 commission pursuant to this section. Between January 1, 2005, and
48 December 31, 2009, such ~~a vertically integrated~~ *an* electric utility ~~and its~~
49 ~~affiliated alternative seller, if any, shall reach a total of~~ *shall have* one-half



1 of 1 percent of the *total* amount of electricity ~~consumed by~~ *sold to* its
2 *retail* customers ~~in this state, increased~~ in annual increments of one-
3 tenth of 1 percent ~~in~~ *during each calendar year of that period, derived*
4 *from* solar energy resources for full compliance with the portfolio
5 ~~standard~~ *standards* established by the commission pursuant to this
6 section.

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

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

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

20 (c) The amount of production of energy from the renewable energy
21 systems;

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

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

27 (f) Such other information that the commission by regulation may deem
28 relevant.

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

31 (a) Rural electric cooperatives established pursuant to chapter 81 of
32 NRS;

33 (b) General improvement districts established pursuant to chapter 318
34 of NRS; or

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

36 7. As used in this section:

37 (a) *"Electric utility" has the meaning ascribed to it in section 19 of*
38 *this act.*

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

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

45 **Sec. 29.** NRS 228.360 is hereby amended to read as follows:

46 228.360 The consumer's advocate ~~may~~ :

47 1. *Shall intervene in and represent the public interest in all*
48 *proceedings conducted pursuant to sections 8 to 18, inclusive, of this act.*



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

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

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

11 ~~{3. —Petition}~~

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

23 **Sec. 30.** NRS 228.390 is hereby amended to read as follows:

24 228.390 **Except as otherwise provided in sections 8 to 18, inclusive,**
25 **of this act:**

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

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

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

39 **Sec. 31.** NRS 538.181 is hereby amended to read as follows:

40 538.181 1. The commission shall hold and administer all rights and
41 benefits pertaining to the distribution of the power and water mentioned in
42 NRS 538.041 to 538.251, inclusive, for the State of Nevada ~~H~~ and, except
43 as otherwise provided in NRS 538.186, may enter into contracts relating to
44 that power and water, including the transmission and other distribution
45 services, on such terms as the commission determines.

46 2. Every applicant, except a federal or state agency or political
47 subdivision, for power or water to be used within the State of Nevada must,
48 before the application is approved, provide an indemnifying bond by a
49 corporation qualified pursuant to the laws of this state, or other collateral,



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1 approved by the state board of examiners, payable to the State of Nevada in
2 such sum and in such manner as the commission may require, conditioned
3 for the full and faithful performance of the lease, sublease, contract or other
4 agreement.

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

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

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

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

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

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

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

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

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

38 (b) Water for distribution or exchange, and any subsequent distribution
39 or exchange of water by any entity to which or with which the commission
40 has contracted the water,
41 is not subject to regulation by the public utilities commission of Nevada.

42 **Sec. 32.** 1. NRS 704.965, 704.966, 704.967, 704.968, 704.969,
43 704.970, 704.971, 704.972, 704.973, 704.974, 704.975, 704.976, 704.977,
44 704.978, 704.979, 704.980, 704.981, 704.982, 704.9823, 704.9826,
45 704.9829, 704.983, 704.984, 704.985, 704.986, 704.9865, 704.987,
46 704.988 and 704.990 are hereby repealed.

47 2. Sections 335 and 337 of chapter 482, Statutes of Nevada 1997, at
48 pages 2021 and 2022, respectively, and sections 17, 21, 22, 24 and 26 of



1 chapter 600, Statutes of Nevada 1999, at pages 3269 and 3272, are hereby
2 repealed.

3 3. Section 127 of Senate Bill No. 29 of this session is hereby repealed.

4 **Sec. 33.** The public utilities commission of Nevada shall:

5 1. Amend, modify, supplement, annul or vacate any order or directive
6 issued by the commission before the effective date of this act that
7 authorizes or requires an electric utility to dispose of any generation asset,
8 if such disposal would violate the provisions of this act;

9 2. Take all appropriate action to request that the Federal Energy
10 Regulatory Commission and any other officer, agency or department of the
11 Federal Government:

12 (a) Not issue any order or directive that authorizes or requires an
13 electric utility to dispose of any generation asset, if such an order or
14 directive could be interpreted as being in conflict with or preempting the
15 provisions of this act; and

16 (b) Amend, modify, supplement, annul or vacate any order or directive
17 issued before, on or after the effective date of this act that authorizes or
18 requires an electric utility to dispose of any generation asset, if such an
19 order or directive could be interpreted as being in conflict with or
20 preempting the provisions of this act;

21 3. If any action taken pursuant to subsection 2 is unsuccessful, take all
22 appropriate legal action to challenge any order or directive issued by the
23 Federal Energy Regulatory Commission or any other officer, agency or
24 department of the Federal Government that authorizes or requires an
25 electric utility to dispose of any generation asset, if such an order or
26 directive could be interpreted as being in conflict with or preempting the
27 provisions of this act; and

28 4. Take any other action or issue any other orders necessary to carry
29 out the provisions of this act.

30 **Sec. 34.** As used in this section and sections 35 and 36 of this act,
31 unless the context otherwise requires:

32 1. "Affiliate" means an entity that, directly or indirectly through one or
33 more intermediaries, controls, is controlled by or is under common control
34 with another entity.

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

36 3. "Comprehensive energy plan" means the application to adopt a
37 comprehensive energy plan, designated in the records of the commission as
38 Docket No. 01-1045, and all amendments and modifications to the
39 application or the plan.

40 4. "Deferred account" means any account that is used to carry out
41 deferred accounting pursuant to section 19 of this act.

42 5. "Electric utility" has the meaning ascribed to it in section 19 of
43 this act.

44 6. "Electric utility holding company" means:

45 (a) An entity which is incorporated or organized under the laws of this
46 state and which holds a controlling interest in an electric utility; and

47 (b) A successor in interest to any entity described in paragraph (a).

48 7. "Electric utility that primarily serves densely populated counties"
49 means an electric utility that, with regard to the provision of electric



1 service, derives more of its annual gross operating revenue in this state
2 from customers located in counties whose population is 400,000 or more
3 than it does from customers located in counties whose population is less
4 than 400,000.

5 8. "Electric utility that primarily serves less densely populated
6 counties" means an electric utility that, with regard to the provision of
7 electric service, derives more of its annual gross operating revenue in this
8 state from customers located in counties whose population is less than
9 400,000 than it does from customers located in counties whose population
10 is 400,000 or more.

11 **Sec. 35.** Except as otherwise provided in section 36 of this act and
12 notwithstanding the provisions of any other specific statute to the contrary:

13 1. An electric utility shall not file an application for a fuel and
14 purchased power rider on or after the effective date of this act.

15 2. Each application for a fuel and purchased power rider filed by an
16 electric utility which is pending with the commission on the effective date
17 of this act and which the electric utility did not place into effect before or
18 on April 1, 2001, is void and unenforceable and is not valid for any
19 purpose after April 1, 2001.

20 3. If, before March 1, 2001, an electric utility incurred any costs for
21 fuel or purchased power, including, without limitation, any costs for fuel or
22 purchased power recorded or carried on the books and records of the
23 electric utility, and those costs were not recovered or could not be
24 recovered pursuant to a fuel and purchased power rider placed into effect
25 by the electric utility before March 1, 2001, the electric utility is not
26 entitled, on or after March 1, 2001, to recover any of those costs for fuel or
27 purchased power from customers, and the commission shall not allow the
28 electric utility to recover any of those costs for fuel or purchased power
29 from customers.

30 4. Except as otherwise provided in this section, on and after the
31 effective date of this act:

32 (a) The commission shall not take any further action on the
33 comprehensive energy plan, and each electric utility that jointly filed the
34 comprehensive energy plan shall be deemed to have withdrawn the
35 comprehensive energy plan;

36 (b) The rates that each electric utility placed into effect on March 1,
37 2001, pursuant to the comprehensive energy plan shall be deemed to be a
38 component of the electric utility's rates for fuel and purchased power; and

39 (c) The revenues collected by each electric utility before April 1, 2001,
40 from the rates that each electric utility placed into effect on March 1, 2001,
41 pursuant to the comprehensive energy plan shall be deemed to be a credit
42 in the electric utility's deferred accounts.

43 5. On or before October 1, 2001, each electric utility that primarily
44 serves densely populated counties shall file a general rate application
45 pursuant to subsection 3 of NRS 704.110, as amended by this act. On or
46 before December 1, 2001, each electric utility that primarily serves densely
47 populated counties shall file an application to clear its deferred accounts
48 pursuant to subsection 7 of NRS 704.110, as amended by this act. After
49 such an electric utility files the application to clear its deferred accounts,



1 the commission shall investigate and determine whether the rates that the
2 electric utility placed into effect on March 1, 2001, pursuant to the
3 comprehensive energy plan are just and reasonable and reflect prudent
4 business practices. On the date on which the commission issues a final
5 order on the general rate application, the commission shall issue a final
6 order on the electric utility's application to clear its deferred accounts. The
7 total rates to provide electric service that were in effect on April 1, 2001,
8 for the electric utility must remain in effect until the date on which the
9 commission issues a final order on the general rate application. The
10 commission shall not adjust the rates of the electric utility during this
11 period unless such an adjustment is absolutely necessary to avoid rates that
12 are confiscatory under the Constitution of the United States or the
13 constitution of this state. The commission:

14 (a) May make such an adjustment only to the extent that it is absolutely
15 necessary to avoid an unconstitutional result; and

16 (b) Shall not, in any proceedings concerning such an adjustment,
17 approve any rate or grant any relief that is not absolutely necessary to
18 avoid an unconstitutional result.

19 After the electric utility files the general rate application that is required by
20 this subsection, the electric utility shall file general rate applications in
21 accordance with subsection 3 of NRS 704.110, as amended by this act.
22 After the electric utility files the application to clear its deferred accounts
23 that is required by this subsection, the electric utility shall file applications
24 to clear its deferred accounts in accordance with section 19 of this act and
25 subsection 7 of NRS 704.110, as amended by this act.

26 6. On or before December 1, 2001, each electric utility that primarily
27 serves less densely populated counties shall file a general rate application
28 pursuant to subsection 3 of NRS 704.110, as amended by this act. On or
29 before February 1, 2002, each electric utility that primarily serves less
30 densely populated counties shall file an application to clear its deferred
31 accounts pursuant to subsection 7 of NRS 704.110, as amended by this act.
32 After such an electric utility files the application to clear its deferred
33 accounts, the commission shall investigate and determine whether the rates
34 that the electric utility placed into effect on March 1, 2001, pursuant to the
35 comprehensive energy plan are just and reasonable and reflect prudent
36 business practices. On the date on which the commission issues a final
37 order on the general rate application, the commission shall issue a final
38 order on the electric utility's application to clear its deferred accounts. The
39 total rates to provide electric service that were in effect on April 1, 2001,
40 for the electric utility must remain in effect until the date on which the
41 commission issues a final order on the general rate application. The
42 commission shall not adjust the rates of the electric utility during this
43 period unless such an adjustment is absolutely necessary to avoid rates that
44 are confiscatory under the Constitution of the United States or the
45 constitution of this state. The commission:

46 (a) May make such an adjustment only to the extent that it is absolutely
47 necessary to avoid an unconstitutional result; and



1 (b) Shall not, in any proceedings concerning such an adjustment,
2 approve any rate or grant any relief that is not absolutely necessary to
3 avoid an unconstitutional result.

4 After the electric utility files the general rate application that is required by
5 this subsection, the electric utility shall file general rate applications in
6 accordance with subsection 3 of NRS 704.110, as amended by this act.
7 After the electric utility files the application to clear its deferred accounts
8 that is required by this subsection, the electric utility shall file applications
9 to clear its deferred accounts in accordance with section 19 of this act and
10 subsection 7 of NRS 704.110, as amended by this act.

11 **Sec. 36.** Notwithstanding the provisions of any other specific statute
12 to the contrary:

13 1. If, on or after January 1, 1999, and before the effective date of this
14 act, an electric utility holding company entered into any transaction to
15 acquire a controlling interest in a public utility that provides electric
16 service primarily to customers located outside of this state, the electric
17 utility holding company shall not carry out the transaction unless, on or
18 after the effective date of this act:

19 (a) The electric utility holding company files with the commission an
20 application for authorization of the transaction; and

21 (b) The commission issues a written order that authorizes the
22 transaction. The commission shall not authorize the transaction unless the
23 commission finds that the transaction will be in the public interest. The
24 commission may base its authorization of the transaction upon such terms,
25 conditions or modifications as the commission deems appropriate.

26 2. If the commission authorizes a transaction described in subsection 1
27 and, before July 1, 2003, the electric utility holding company acquires a
28 controlling interest in such a public utility, or any affiliate thereof, pursuant
29 to the transaction:

30 (a) Each electric utility in which the electric utility holding company
31 holds a controlling interest shall not use deferred accounting pursuant to
32 section 19 of this act on or after the date on which the electric utility
33 holding company acquires a controlling interest in the public utility, or any
34 affiliate thereof;

35 (b) Not later than 90 days after that date, each such electric utility shall
36 file one final application to clear the remaining balance in its deferred
37 accounts pursuant to subsection 7 of NRS 704.110, as amended by this act;

38 (c) For each such electric utility, the commission shall not carry out the
39 provisions of section 35 of this act concerning deferred accounting and
40 deferred accounts; and

41 (d) The commission shall carry out the remaining provisions of section
42 35 of this act, including, without limitation, the commission's investigation
43 and determination whether the rates that each electric utility placed into
44 effect on March 1, 2001, pursuant to the comprehensive energy plan are
45 just and reasonable and reflect prudent business practices.

46 3. Any transaction that violates the provisions of this section is void
47 and unenforceable and is not valid for any purpose.

48 **Sec. 37.** Any license issued to an alternative seller pursuant to NRS
49 704.977 is void on and after the effective date of this act.



1 **Sec. 38.** 1. The provisions of this act are hereby declared to be
2 severable.

3 2. If any provision of this act is held invalid, or if the application of
4 any such provision to any person, thing or circumstance is held invalid,
5 such invalidity does not affect any other provision of this act that can be
6 given effect without the invalid provision or application.

7 **Sec. 39.** 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.

704.980 Provision of potentially competitive service by affiliate of provider of noncompetitive service: Requirements; regulations;



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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



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.

Section 127 of Senate Bill No. 29 of this session:

Sec. 127. 1. Section 25 of chapter 600, Statutes of Nevada 1999, at page 3272, is hereby amended to read as follows:

Sec. 25. 1. This section and sections 1 to 6, inclusive, 9 to 16, inclusive, 18 ~~to 22, inclusive,~~ , 19, 20, 21, 22 and 26 of this act become effective on July 1, 1999.

2. Sections 23 and 24 *of this act* become effective upon passage and approval.

3. Sections 7 and 8 of this act become effective on October 1, 1999.

4. ~~Sections 4 and 16 expire~~ *Section 4 of this act expires* by limitation on March 1, 2003.

5. Section 5 *of this act* expires by limitation on September 1, 2003.

6. ~~Section 17 becomes~~ *Sections 17 and 20.1 of this act become* effective on March 1, 2003.

2. Chapter 600, Statutes of Nevada 1999, at page 3272, is hereby amended by adding thereto a new section to be designated as section 20.1, immediately following section 20, to read as follows:

Sec. 20.1. Section 6 of this act is hereby amended to read as follows:

Sec. 6. 1. At any time after July 1, 2001, a licensed alternative seller may submit to the commission an offer to provide electric service that is being provided by the provider designated pursuant to subsection 1 of NRS 704.982. The offer must:

(a) Request to serve at least 10 percent of the load of the provider designated pursuant to subsection 1 of NRS 704.982;
and

(b) Provide that the service will be provided by the alternative seller to more than one class of customers. ~~and~~

~~(c) Provide that there will be a discount of 5 percent off the rate prescribed in subsection 2 of NRS 704.982.~~

2. Upon the receipt of such an offer, the commission may conduct an auction if the commission determines that it is in the public interest to conduct such an auction. If the commission determines that such an auction is in the public interest, the commission shall conduct the auction as soon as practicable. The commission shall determine the terms and conditions for continued service by the successful bidder at the auction. Any licensed alternative seller or affiliate of an electric distribution utility may submit a bid. Bidding must be done by sealed bid. Each bid must be not less than 10 percent of the load, as



measured in megawatts or megawatt hours, of the load of the provider designated pursuant to subsection 1 of NRS 704.982.

3. The commission shall review the bids. If the successful bidder is an alternative seller or an affiliate of an electric distribution utility other than the electric distribution utility that provided the service before the auction, the successful bidder becomes the provider of the service for the percentage of the load as indicated in its bid. For the remainder of the load that is not awarded to a successful bidder, the electric distribution utility which provided service to the customers before the auction remains the provider of the service, and that service must continue to be provided under the same terms and conditions as existed for the provision of that service by the electric distribution utility immediately before the auction.

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