

(REPRINTED WITH ADOPTED AMENDMENTS)
SECOND REPRINT **A.B. 661**

ASSEMBLY BILL NO. 661—SELECT COMMITTEE ON ENERGY

MARCH 26, 2001

Referred to Select Committee on Energy

SUMMARY—Revises and repeals various provisions concerning utilities and energy.
(BDR 58-1128)

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

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

AN ACT relating to energy; authorizing certain eligible customers to purchase electrical energy, capacity and certain ancillary services from providers of new electric resources; revising and repealing various provisions concerning the regulation of public utilities; and providing other matters properly relating thereto.

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

- 1 **Section 1.** For the purposes of sections 3 to 26, inclusive, of this act,
2 the legislature hereby finds and declares that:
3 1. A reliable and reasonably priced supply of electricity is critical to
4 the economy of this state and to the health, safety and welfare of the
5 residents of this state;
6 2. The electric utilities in this state depend on regional energy markets
7 to purchase approximately 50 percent of the electricity needed to serve
8 their customers in this state, and such purchases are often made pursuant to
9 agreements with terms of 1 year or less;
10 3. The energy markets in the western United States currently are
11 characterized by critical shortages in the supply of electricity and
12 extremely high prices for electricity, both of which are damaging to the
13 strength of the economy of this state and to the well-being of the residents
14 of this state;
15 4. The residents of this state would benefit from construction of new
16 generation assets in this state and from access to other new electric
17 resources, wherever located, that provide lower-priced electricity;
18 5. The economic development that would result from construction in
19 this state of new generation assets, supporting gas pipelines and additional
20 infrastructure would be of special benefit to the rural areas of this state
21 where the new generation assets are most likely to be located;



* A B 6 6 1 R 2 *

1 6. During this session, the legislature has considered a number of
2 different but complementary approaches to developing and using new
3 generation assets and other new electric resources and to increasing the
4 supply of reasonably priced electricity in this state;

5 7. The development and use of new generation assets and other new
6 electric resources by eligible customers would permit the electric utilities
7 in this state to reduce their dependence on purchases of excessively priced
8 electricity from dysfunctional, short-term energy markets and would
9 thereby reduce the average system costs for such electric utilities;

10 8. The development and use of new generation assets and other new
11 electric resources can be encouraged by allowing eligible customers to use
12 their own resources, initiative, expertise and credit to develop, access and
13 enter into agreements for the purchase of electricity from new generation
14 assets and other new electric resources; and

15 9. To protect the electric utilities in this state and their remaining
16 customers, all transactions proposed by eligible customers pursuant to
17 sections 3 to 26, inclusive, of this act must be carefully reviewed by the
18 public utilities commission of Nevada to ensure that the electric utilities in
19 this state and their remaining customers are not subject to increased costs
20 as a result of the proposed transactions and that the proposed transactions
21 are not otherwise contrary to the public interest.

22 **Sec. 2.** Title 58 of NRS is hereby amended by adding thereto a new
23 chapter to consist of the provisions set forth as sections 3 to 26, inclusive,
24 of this act.

25 **Sec. 3.** *As used in this chapter, unless the context otherwise*
26 *requires, the words and terms defined in sections 4 to 16, inclusive, of*
27 *this act have the meanings ascribed to them in those sections.*

28 **Sec. 4.** *“Ancillary services” means those generation services that:*

29 *1. Are necessary to support the transmission of energy and capacity*
30 *from resources to loads while maintaining reliable operation of the*
31 *transmission system of the electric utility; and*

32 *2. Are defined and established in applicable transmission tariffs on*
33 *file with the Federal Energy Regulatory Commission.*

34 **Sec. 5.** *“Calendar quarter” means each period of 3 consecutive*
35 *calendar months ending on March 31, June 30, September 30 and*
36 *December 31 in each calendar year.*

37 **Sec. 6.** *“Commission” means the public utilities commission of*
38 *Nevada.*

39 **Sec. 7.** *1. “Electric utility” means any public utility or successor in*
40 *interest that:*

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

42 *(b) Holds a certificate of public convenience and necessity issued or*
43 *transferred pursuant to chapter 704 of NRS; and*

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

48 *2. The term does not include a cooperative association, nonprofit*
49 *corporation, nonprofit association or provider of electric service which is*



* A B 6 6 1 R 2 *

1 declared to be a public utility pursuant to NRS 704.673 and which
2 provides service only to its members.

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

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

15 **Sec. 10.** "Eligible customer" means an end-use customer which is:

16 1. A nongovernmental commercial or industrial end-use customer
17 that has an average annual load of 1 megawatt or more in the service
18 territory of an electric utility.

19 2. A governmental entity, including, without limitation, a
20 governmental entity providing educational or health care services, that:

21 (a) Performs its functions using one or more facilities which are
22 operated under a common budget and common control; and

23 (b) Has an average annual load of 1 megawatt or more in the service
24 territory of an electric utility.

25 **Sec. 11.** "Energy" means electrical energy.

26 **Sec. 12.** "Generation asset" means any plant, facility, equipment or
27 system which is located within or outside this state and which converts
28 nonelectrical energy into electrical energy or otherwise produces
29 electrical energy.

30 **Sec. 13.** "New electric resource" means:

31 1. The energy, capacity or ancillary services and any increased or
32 additional energy, capacity or ancillary services which are:

33 (a) Made available from a generation asset that is not owned by an
34 electric utility or is not subject to contractual commitments to an electric
35 utility that make the energy, capacity or ancillary services from the
36 generation asset unavailable for purchase by an eligible customer; and

37 (b) Able to be delivered to an eligible customer.

38 2. Any increased energy, capacity or ancillary services made
39 available from a generation asset pursuant to an agreement described in
40 section 18 of this act.

41 **Sec. 14.** "Person" means:

42 1. A natural person.

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

47 3. A governmental entity other than:

48 (a) This state or an agency or instrumentality of this state; or



* A B 6 6 1 R 2 *

1 (b) *A political subdivision of this state or an agency or instrumentality*
2 *of a political subdivision of this state.*

3 **Sec. 15.** *“Provider of new electric resources” and “provider” mean a*
4 *person who makes energy, capacity or ancillary services from a new*
5 *electric resource available to an eligible customer.*

6 **Sec. 16.** *“Time-of-use meter” means a meter that:*
7 1. *Measures and records the electric demand, energy and power*
8 *factor on 15-minute intervals; and*
9 2. *Is suitable for use with an electric demand of 1 megawatt or more.*

10 **Sec. 17.** 1. *The provisions of this chapter do not alter, diminish or*
11 *otherwise affect any rights or obligations arising under any contract*
12 *which requires an electric utility to purchase energy, capacity or*
13 *ancillary services from another party and which exists on the effective*
14 *date of this act.*
15 2. *Each electric utility or its assignee shall comply with the terms of*
16 *any contract which requires the electric utility or its assignee to purchase*
17 *energy, capacity or ancillary services from another party and which*
18 *exists on the effective date of this act.*

19 **Sec. 18.** 1. *Except as otherwise provided in this section, an electric*
20 *utility may, at its discretion, enter into agreements relating to its*
21 *generation assets and the energy, capacity or ancillary services provided*
22 *by its generation assets with one or more other persons who are not*
23 *electric utilities. Such agreements, without limitation:*
24 (a) *May include agreements to construct or install a new generation*
25 *asset on real property that is adjacent to an existing generation asset*
26 *owned by the electric utility; and*
27 (b) *Provide for the sharing of available common facilities with*
28 *the existing generation asset or the reengineering, repowering or*
29 *expansion of the existing generation asset to generate energy more*
30 *efficiently and at a lower cost and to make more energy available to*
31 *customers in this state.*
32 2. *Any increased energy, capacity or ancillary services made*
33 *available from a new generation asset or an existing generation asset*
34 *pursuant to an agreement described in subsection 1 shall be deemed to be*
35 *a new electric resource that may be:*
36 (a) *Owned by the parties to the agreement who are not electric*
37 *utilities; and*
38 (b) *Used or consumed by such parties for their own purposes, sold at*
39 *wholesale by such parties or sold by such parties to one or more eligible*
40 *customers pursuant to the provisions of this chapter.*
41 3. *A transaction undertaken pursuant to an agreement described in*
42 *subsection 1:*
43 (a) *Must not impair system reliability or the ability of the electric*
44 *utility to provide electric service to its customers; and*
45 (b) *Must not violate the provisions of sections 8 to 18, inclusive, of*
46 *Assembly Bill No. 369 of this session.*



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1 4. The provisions of this section do not exempt any party to an
2 agreement described in subsection 1 from any applicable statutory or
3 regulatory requirements relating to siting, construction and operation of
4 a generation asset.

5 5. The commission shall encourage the development of new electric
6 resources and shall not exercise its regulatory authority in a manner that
7 unnecessarily or unreasonably restricts, conditions or discourages any
8 agreement described in subsection 1 that is likely to result in increased
9 energy, capacity or ancillary services from a generation asset or
10 improved or more efficient operation or management of a generation
11 asset.

12 **Sec. 19.** 1. Except as otherwise provided in this section, a provider
13 of new electric resources may sell energy, capacity or ancillary services to
14 one or more eligible customers if the eligible customers have been
15 approved to purchase energy, capacity and ancillary services from the
16 provider pursuant to the provisions of sections 20 and 21 of this act.

17 2. A provider of new electric resources shall not sell energy, capacity
18 or ancillary services to an eligible customer:

19 (a) Before April 1, 2002, if the eligible customer's load is in the
20 service territory of an electric utility that primarily serves less densely
21 populated counties;

22 (b) Before June 1, 2002, if the eligible customer's load is in the
23 service territory of an electric utility that primarily serves densely
24 populated counties; or

25 (c) If the transaction violates the provisions of this chapter.

26 3. A provider of new electric resources that sells energy, capacity or
27 ancillary services to an eligible customer pursuant to the provisions of
28 this chapter:

29 (a) Does not become and shall not be deemed to be a public utility
30 solely because of that transaction; and

31 (b) Does not become and shall not be deemed to be subject to the
32 jurisdiction of the commission except as otherwise provided in this
33 chapter or by specific statute.

34 4. If a provider of new electric resources is not a public utility in this
35 state and is not otherwise authorized by the provisions of a specific
36 statute to sell energy, capacity or ancillary services at retail in this state,
37 the provider shall not sell energy, capacity or ancillary services at retail
38 in this state to a person or entity that is not an eligible customer.

39 **Sec. 20.** 1. An eligible customer that is purchasing electric service
40 from an electric utility shall not purchase energy, capacity or ancillary
41 services from a provider of new electric resources and an eligible
42 customer that is purchasing energy, capacity or ancillary services from a
43 provider of new electric resources shall not purchase energy, capacity or
44 ancillary services from another provider unless:

45 (a) The eligible customer files an application with the commission not
46 later than 180 days before the date on which the eligible customer
47 intends to begin purchasing energy, capacity or ancillary services from
48 the provider; and



1 (b) The commission approves the application by a written order issued
2 in accordance with the provisions of this section and section 21 of this
3 act.

4 The date on which the eligible customer intends to begin purchasing
5 energy, capacity or ancillary services from the provider must not be
6 sooner than the date on which the provider is authorized by section 19 of
7 this act to begin selling energy, capacity or ancillary services to the
8 eligible customer.

9 2. Except as otherwise provided in subsection 3, each application
10 filed pursuant to this section must include:

11 (a) Information demonstrating that the person filing the application is
12 an eligible customer;

13 (b) Information demonstrating that the proposed provider will provide
14 energy, capacity or ancillary services from a new electric resource;

15 (c) Information concerning the terms and conditions of the proposed
16 transaction that is necessary for the commission to evaluate the impact of
17 the proposed transaction on customers and the public interest, including,
18 without limitation, information concerning the duration of the proposed
19 transaction and the amount of energy, capacity or ancillary services to be
20 purchased from the provider; and

21 (d) Any other information required pursuant to the regulations
22 adopted by the commission.

23 3. Except as otherwise provided in section 21 of this act, the
24 commission shall not require the eligible customer or provider to
25 disclose:

26 (a) The price that is being paid by the eligible customer to purchase
27 energy, capacity or ancillary services from the provider; or

28 (b) Any other terms or conditions of the proposed transaction that the
29 commission determines are commercially sensitive.

30 4. The commission shall provide public notice of the application of
31 the eligible customer and an opportunity for a hearing on the application
32 in a manner that is consistent with the provisions of NRS 703.320 and
33 the regulations adopted by the commission.

34 5. The commission shall approve the application of the eligible
35 customer unless the commission finds that the proposed transaction:

36 (a) Will be contrary to the public interest; or

37 (b) Does not comply with the provisions of section 21 of this act, if
38 those provisions apply to the proposed transaction.

39 6. In determining whether the proposed transaction will be contrary
40 to the public interest, the commission shall consider, without limitation:

41 (a) Whether the electric utility that has been providing electric service
42 to the eligible customer will be burdened by increased costs as a result of
43 the proposed transaction or whether any remaining customer of the
44 electric utility will pay increased costs for electric service as a result of
45 the proposed transaction;

46 (b) Whether the proposed transaction will impair system reliability or
47 the ability of the electric utility to provide electric service to its remaining
48 customers; and



* A B 6 6 1 R 2 *

1 (c) Whether the proposed transaction will add energy, capacity or
2 ancillary services to the supply in this state.

3 7. If the commission approves the application of the eligible
4 customer:

5 (a) The eligible customer shall not begin purchasing energy, capacity
6 or ancillary services from the provider pursuant to the proposed
7 transaction sooner than 180 days after the date on which the application
8 was filed; and

9 (b) The commission shall order such terms, conditions and payments
10 as the commission deems necessary and appropriate to ensure that the
11 proposed transaction will not be contrary to the public interest. Such
12 terms, conditions and payments:

13 (1) Must be fair and nondiscriminatory as between the eligible
14 customer and the remaining customers of the electric utility; and

15 (2) Must include, without limitation, payment by the eligible
16 customer to the electric utility of the eligible customer's load-share
17 portion of any unrecovered balance in the deferred accounts of the
18 electric utility.

19 8. If the commission does not enter a final order on the application
20 of the eligible customer within 90 days after the date on which the
21 application was filed with the commission:

22 (a) The application shall be deemed to be approved by the
23 commission; and

24 (b) The eligible customer shall not begin purchasing energy, capacity
25 or ancillary services from the provider pursuant to the proposed
26 transaction sooner than 180 days after the date on which the application
27 was filed.

28 **Sec. 21. 1.** For eligible customers whose loads are in the service
29 territory of an electric utility that primarily serves densely populated
30 counties:

31 (a) The amount of energy that each such eligible customer purchases
32 from providers of new electric resources before July 1, 2003, must not
33 exceed 80 percent of the load of the eligible customer; and

34 (b) The aggregate amount of energy that all such eligible customers
35 purchase from providers of new electric resources before July 1, 2003,
36 must not exceed 50 percent of the difference between the existing supply
37 of energy generated in this state that is available to the electric utility and
38 the existing demand for energy in this state that is consumed by the
39 customers of the electric utility, as determined by the commission.

40 2. An eligible customer that is a nongovernmental commercial or
41 industrial end-use customer whose load is in the service territory of an
42 electric utility that primarily serves densely populated counties shall not
43 purchase energy, capacity or ancillary services from a provider of new
44 electric resources unless, as part of the proposed transaction, the eligible
45 customer agrees to:

46 (a) Contract with the provider to purchase:

47 (1) An additional amount of energy which is equal to 10 percent of
48 the total amount of energy that the eligible customer is purchasing for its
49 own use under the proposed transaction and which is purchased at the



1 *same price, terms and conditions as the energy purchased by the eligible*
2 *customer for its own use; and*

3 (2) *The capacity and ancillary services associated with the*
4 *additional amount of energy at the same price, terms and conditions as*
5 *the capacity and ancillary services purchased by the eligible customer for*
6 *its own use; and*

7 (b) *Offers to assign the rights to the contract to the electric utility for*
8 *use by the remaining customers of the electric utility.*

9 3. *If an eligible customer is subject to the provisions of subsection 2,*
10 *the eligible customer shall include with its application filed pursuant to*
11 *section 20 of this act all information concerning the contract offered to*
12 *the electric utility that is necessary for the commission to determine*
13 *whether it is in the best interest of the remaining customers of the electric*
14 *utility for the electric utility to accept the rights to the contract. Such*
15 *information must include, without limitation, the amount of the energy*
16 *and capacity to be purchased under the contract, the price of the energy,*
17 *capacity and ancillary services and the duration of the contract.*
18 *Information concerning the price of the energy, capacity and ancillary*
19 *services and any other terms or conditions of the contract that the*
20 *commission determines are commercially sensitive shall be deemed to be*
21 *confidential, and the commission shall establish a procedure for*
22 *protecting such information from disclosure.*

23 4. *If the commission determines that the contract:*

24 (a) *Is not in the best interest of the remaining customers of the electric*
25 *utility, the electric utility shall not accept the rights to the contract, and*
26 *the eligible customer is entitled to all rights to the contract.*

27 (b) *Is in the best interest of the remaining customers of the electric*
28 *utility, the electric utility shall accept the rights to the contract and the*
29 *eligible customer shall assign all rights to the contract to the electric*
30 *utility. A contract that is assigned to the electric utility pursuant to this*
31 *paragraph shall be deemed to be an approved part of the resource plan of*
32 *the electric utility and a prudent investment, and the electric utility may*
33 *recover all costs for the energy, capacity and ancillary services acquired*
34 *pursuant to the contract. To the extent practicable, the commission shall*
35 *take actions to ensure that the electric utility uses the energy, capacity*
36 *and ancillary services acquired pursuant to each such contract only for*
37 *the benefit of the remaining customers of the electric utility that are not*
38 *eligible customers, with a preference for the remaining customers of the*
39 *electric utility that are residential customers with small loads.*

40 **Sec. 22.** 1. *If an eligible customer is purchasing energy, capacity*
41 *or ancillary services from a provider of new electric resources, the*
42 *eligible customer may, pursuant to tariffs approved by the commission,*
43 *replace some or all, but not less than all at a single time-of-use meter, of*
44 *the energy, capacity or ancillary services purchased from the provider of*
45 *new electric resources with energy, capacity or ancillary services*
46 *purchased from an electric utility.*

47 2. *The tariffs approved by the commission pursuant to this section*
48 *must include, without limitation:*



- 1 (a) Provisions requiring the eligible customer to pay any incremental
2 costs that are incurred by the electric utility to provide energy to the
3 eligible customer;
4 (b) Provisions requiring the eligible customer to provide reasonable
5 and adequate notice to the electric utility;
6 (c) Provisions establishing minimum terms during which the eligible
7 customer must continue to purchase energy from the electric utility; and
8 (d) Any other provisions that the commission determines are
9 necessary and reasonable to carry out and enforce the provisions of this
10 section.
- 11 **Sec. 23.** 1. A provider of new electric resources shall not sell
12 energy, capacity or ancillary services to an eligible customer unless the
13 customer has a time-of-use meter installed at the point of delivery of
14 energy to the eligible customer.
- 15 2. An electric utility shall install a time-of-use meter at each point of
16 delivery of energy to the eligible customer if the eligible customer does
17 not have a time-of-use meter at that point of delivery. The eligible
18 customer shall pay all costs for the time-of-use meter and for installation
19 of the time-of-use meter by the electric utility.
- 20 3. Not more than one person or entity may sell the energy that is
21 delivered to an eligible customer through any one time-of-use meter.
- 22 4. The provisions of this section do not prohibit:
- 23 (a) An eligible customer from having more than one time-of-use meter
24 installed for the same service location; or
- 25 (b) An eligible customer from installing any other meter or equipment
26 that is necessary or appropriate to the transaction with the provider, if
27 such a meter or equipment is otherwise consistent with system reliability.
- 28 **Sec. 24.** 1. An electric utility shall provide all transmission,
29 distribution, metering and other components of electric service that are
30 necessary for a provider of new electric resources to sell energy, capacity
31 and ancillary services to an eligible customer pursuant to the provisions
32 of this chapter. An electric utility shall provide each such component of
33 electric service pursuant to the tariffs and service agreements filed with
34 and approved by the appropriate regulatory authorities having
35 jurisdiction over each such component of electric service.
- 36 2. For each such component of electric service that is within the
37 jurisdiction of the commission, the commission shall establish just,
38 reasonable and nondiscriminatory rates.
- 39 3. The provisions of this chapter do not enlarge or expand any
40 existing rights under federal law or create any other rights with regard to
41 the transmission system of the electric utility.
- 42 4. When providing service pursuant to this chapter, an electric utility
43 is subject to all applicable statutes and regulations of this state and the
44 United States.
- 45 **Sec. 25.** Not later than 30 days after the end of each calendar
46 quarter, the commission shall submit to the legislative commission a
47 written report which summarizes for that calendar quarter:
- 48 1. Each application which was filed with the commission pursuant to
49 the provisions of this chapter and which requested approval of a



* A B 6 6 1 R 2 *

1 *proposed transaction between an eligible customer and a provider of new*
2 *electric resources;*

3 2. *The information that the eligible customer included with the*
4 *application;*

5 3. *The findings of the commission concerning the effect of the*
6 *proposed transaction on the public interest; and*

7 4. *Whether the commission approved the application and, if so, the*
8 *effective date of the proposed transaction, the terms and conditions of the*
9 *proposed transaction, and the terms, conditions and payments ordered by*
10 *the commission.*

11 **Sec. 26.** *The commission shall adopt regulations to carry out and*
12 *enforce the provisions of this chapter.*

13 **Sec. 27.** Chapter 704 of NRS is hereby amended by adding thereto a
14 new section to read as follows:

15 *“Biomass” means any organic matter that is available on a renewable*
16 *basis, including, without limitation:*

17 1. *Agricultural crops and agricultural wastes and residues;*

18 2. *Wood and wood wastes and residues;*

19 3. *Animal wastes;*

20 4. *Municipal wastes; and*

21 5. *Aquatic plants.*

22 **Sec. 28.** NRS 704.005 is hereby amended to read as follows:

23 704.005 As used in this chapter, unless the context otherwise requires,
24 the words and terms defined in NRS 704.010 to 704.030, inclusive, *and*
25 *section 27 of this act* have the meanings ascribed to them in those sections.

26 **Sec. 29.** Section 1 of Assembly Bill No. 197 of this session is hereby
27 amended to read as follows:

28 Section 1. Chapter 704 of NRS is hereby amended by adding
29 thereto a new section to read as follows:

30 1. *On and after October 1, 2001, each electric utility shall*
31 *disclose to its retail customers information about electric services,*
32 *and any products and services relating thereto, that are being*
33 *provided to or purchased for those retail customers by the electric*
34 *utility. The disclosure must:*

35 (a) *Be in a standard, uniform format established by the*
36 *commission by regulation;*

37 (b) *Be included:*

38 (1) *At least two times each calendar year, as an insert in the*
39 *bills that the electric utility sends to its retail customers; and*

40 (2) *If the electric utility maintains a website on the Internet or*
41 *any successor to the Internet, on that website; and*

42 (c) *Include adequate information so that a retail customer can*
43 *readily evaluate his options for obtaining electric services or any*
44 *products or services relating thereto.*

45 2. *A disclosure required by this section must include, if*
46 *applicable:*

47 (a) *The average mix of energy sources used to generate the*
48 *electricity sold by the electric utility to the retail customer. An*
49 *electric utility may, if available, use a regional average that has been*



1 *determined by the commission for that portion of electricity sold by*
2 *the electric utility to the retail customer for which the specific mix of*
3 *energy sources cannot be discerned.*

4 *(b) The average emissions, measured in pounds per megawatt-*
5 *hour, of:*

6 *(1) Any high-level radioactive waste, sulfur dioxide, carbon*
7 *dioxide, oxides of nitrogen and heavy metals released in this state*
8 *from the generation of the electricity sold by the electric utility to the*
9 *retail customer; and*

10 *(2) Any other substances released in this state from the*
11 *generation of the electricity sold by the electric utility to the retail*
12 *customer which the commission, in cooperation with the division of*
13 *environmental protection of the state department of conservation*
14 *and natural resources, determines may cause a significant health or*
15 *environmental impact and for which sufficiently accurate and*
16 *reliable data is available.*

17 *If an electric utility uses a regional average for the mix of energy*
18 *sources pursuant to paragraph (a), the electric utility shall, if*
19 *available, use for the average emissions pursuant to this paragraph*
20 *a regional calculation that has been determined by the commission.*

21 *(c) Information concerning customer service.*

22 *(d) Information concerning any energy programs that provide*
23 *assistance to retail customers with low incomes, including, without*
24 *limitation, information on the procedures to apply for such*
25 *programs.*

26 *3. An electric utility:*

27 *(a) Shall make the disclosures required pursuant to this section*
28 *in accordance with the requirements adopted by the commission as*
29 *to form and substance; and*

30 *(b) Shall ensure that it provides the information in compliance*
31 *with all applicable state and federal law governing unfair*
32 *advertising and labeling.*

33 *4. The commission shall adopt such regulations concerning*
34 *form and substance for the disclosures required by this section as*
35 *are necessary to ensure that retail customers are provided with*
36 *sufficient information so that they can readily evaluate their options*
37 *for obtaining electric services and any products and services relating*
38 *thereto.*

39 *5. The provisions of this section do not require an electric utility*
40 *to disclose to its retail customers any information about electric*
41 *services, and any products and services relating thereto, that are*
42 *subject to the provisions of sections 3 to 26, inclusive, of Assembly*
43 *Bill No. 661 of this session.*

44 *6. As used in this section:*

45 *(a) "Electric utility" has the meaning ascribed to it in section 19*
46 *of Assembly Bill No. 369 of this session.*

47 *(b) "Energy source" includes, without limitation:*

48 *(1) Coal, natural gas, oil, propane and any other fossil fuel;*



* A B 6 6 1 R 2 *

1 (2) *Geothermal energy, solar energy, hydroelectric energy,*
2 *nuclear energy, wind, biofuel and biomass; and*

3 (3) *Any other specific energy source that is used to generate*
4 *the electricity provided to the retail customer.*

5 **Sec. 30.** Assembly Bill No. 369 of this session is hereby amended by
6 adding thereto a new section designated sec. 15.5, following sec. 15, to
7 read as follows:

8 Sec. 15.5. *The provisions of sections 8 to 18, inclusive, of this*
9 *act do not prohibit an electric utility from pledging, mortgaging,*
10 *granting a security interest in or otherwise encumbering any of its*
11 *generation assets or other property for the purpose of securing*
12 *indebtedness of the electric utility which exists on the effective date*
13 *of this act or which is issued or incurred by the electric utility after*
14 *the effective date of this act in financing transactions approved by*
15 *the commission.*

16 **Sec. 31.** Section 35 of Assembly Bill No. 369 of this session is hereby
17 amended to read as follows:

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

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

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

28 3. If, before March 1, 2001, an electric utility incurred any costs
29 for fuel or purchased power, including, without limitation, any costs
30 for fuel or purchased power recorded or carried on the books and
31 records of the electric utility, and those costs were not recovered or
32 could not be recovered pursuant to a fuel and purchased power rider
33 placed into effect by the electric utility before March 1, 2001, the
34 electric utility is not entitled, on or after March 1, 2001, to recover
35 any of those costs for fuel or purchased power from customers, and
36 the commission shall not allow the electric utility to recover any of
37 those costs for fuel or purchased power from customers.

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

40 (a) The commission shall not take any further action on the
41 comprehensive energy plan, and each electric utility that jointly filed
42 the comprehensive energy plan shall be deemed to have withdrawn
43 the comprehensive energy plan;

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

48 (c) The revenues ~~collected~~ *for services provided* by each electric
49 utility ~~before April~~ *for the period of March 1, 2001, to March 31,*



* A B 6 6 1 R 2 *

1 **2001, inclusive**, from the rates that each electric utility placed into
2 effect on March 1, 2001, pursuant to the comprehensive energy plan
3 shall be deemed to be a credit in the electric utility's deferred
4 accounts.

5 5. On or before October 1, 2001, each electric utility that
6 primarily serves densely populated counties shall file a general rate
7 application pursuant to subsection 3 of NRS 704.110, as amended by
8 this act. On or before December 1, 2001, each electric utility that
9 primarily serves densely populated counties shall file an application to
10 clear its deferred accounts pursuant to subsection 7 of NRS 704.110,
11 as amended by this act. After such an electric utility files the
12 application to clear its deferred accounts, the commission shall
13 investigate and determine whether the rates that the electric utility
14 placed into effect on March 1, 2001, pursuant to the comprehensive
15 energy plan are just and reasonable and reflect prudent business
16 practices. On the date on which the commission issues a final order on
17 the general rate application, the commission shall issue a final order
18 on the electric utility's application to clear its deferred accounts. The
19 total rates to provide electric service that were in effect on April 1,
20 2001, for the electric utility must remain in effect until the date on
21 which the commission issues a final order on the general rate
22 application. The commission shall not adjust the rates of the electric
23 utility during this period unless such an adjustment is absolutely
24 necessary to avoid rates that are confiscatory under the Constitution of
25 the United States or the constitution of this state. The commission:

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

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

31 After the electric utility files the general rate application that is
32 required by this subsection, the electric utility shall file general rate
33 applications in accordance with subsection 3 of NRS 704.110, as
34 amended by this act. After the electric utility files the application to
35 clear its deferred accounts that is required by this subsection, the
36 electric utility shall file applications to clear its deferred accounts in
37 accordance with section 19 of this act and subsection 7 of NRS
38 704.110, as amended by this act.

39 6. On or before December 1, 2001, each electric utility that
40 primarily serves less densely populated counties shall file a general
41 rate application pursuant to subsection 3 of NRS 704.110, as amended
42 by this act. On or before February 1, 2002, each electric utility that
43 primarily serves less densely populated counties shall file an
44 application to clear its deferred accounts pursuant to subsection 7 of
45 NRS 704.110, as amended by this act. After such an electric utility
46 files the application to clear its deferred accounts, the commission
47 shall investigate and determine whether the rates that the electric
48 utility placed into effect on March 1, 2001, pursuant to the
49 comprehensive energy plan are just and reasonable and reflect prudent



* A B 6 6 1 R 2 *

business practices. On the date on which the commission issues a final order on the general rate application, the commission shall issue a final order on the electric utility's application to clear its deferred accounts. The total rates to provide electric service that were in effect on April 1, 2001, for the electric utility must remain in effect until the date on which the commission issues a final order on the general rate application. The commission shall not adjust the rates of the electric utility during this period unless such an adjustment is absolutely necessary to avoid rates that are confiscatory under the Constitution of the United States or the constitution of this state. The commission:

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

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

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

Sec. 32. Section 6 of Senate Bill No. 372 of this session is hereby amended to read as follows:

Sec. 6. 1. "Provider of electric service" and "provider" mean any person or entity that is in the business of selling electricity to retail customers *for consumption* in this state, regardless of whether the person or entity is otherwise subject to regulation by the commission.

2. *The term includes, without limitation, a provider of new electric resources that is selling electricity to an eligible customer for consumption in this state pursuant to the provisions of sections 3 to 26, inclusive, of Assembly Bill No. 661 of this session.*

3. The term does not include:

(a) This state or an agency or instrumentality of this state.

(b) A rural electric cooperative established pursuant to chapter 81 of NRS.

(c) A general improvement district established pursuant to chapter 318 of NRS.

(d) A utility established pursuant to chapter 709 or 710 of NRS.

(e) A cooperative association, nonprofit corporation, nonprofit association or provider of electric service which is declared to be a public utility pursuant to NRS 704.673 and which provides service only to its members.

(f) A landlord of a mobile home park or owner of a company town who is subject to any of the provisions of NRS 704.905 to 704.960, inclusive.



* A B 6 6 1 R 2 *

1 (g) *A landlord who pays for electricity that is delivered through a*
2 *master meter and who distributes or resells the electricity to one or*
3 *more tenants for consumption in this state.*

4 **Sec. 33.** Section 9 of Senate Bill No. 372 of this session is hereby
5 amended to read as follows:

6 Sec. 9. 1. "Retail customer" means ~~a customer who~~ *an end-*
7 *use customer that* purchases electricity ~~at retail~~ *for consumption in*
8 *this state.*

9 2. The term includes, without limitation:

10 (a) This state, a political subdivision of this state or an agency or
11 instrumentality of this state or political subdivision of this state when
12 it *is an end-use customer that* purchases electricity ~~at retail; and~~ *for*
13 *consumption in this state, including, without limitation, when it is*
14 *an eligible customer that purchases electricity for consumption in*
15 *this state from a provider of new electric resources pursuant to the*
16 *provisions of sections 3 to 26, inclusive, of Assembly Bill No. 661 of*
17 *this session.*

18 (b) *A residential, commercial or industrial end-use customer that*
19 *purchases electricity for consumption in this state, including,*
20 *without limitation, an eligible customer that purchases electricity for*
21 *consumption in this state from a provider of new electric resources*
22 *pursuant to the provisions of sections 3 to 26, inclusive, of Assembly*
23 *Bill No. 661 of this session.*

24 (c) A landlord of a mobile home park or owner of a company town
25 who is subject to any of the provisions of NRS 704.905 to 704.960,
26 inclusive.

27 (d) *A landlord who pays for electricity that is delivered through a*
28 *master meter and who distributes or resells the electricity to one or*
29 *more tenants for consumption in this state.*

30 **Sec. 34.** 1. Section 2 of Assembly Bill No. 197 of this session is
31 hereby repealed.

32 2. Section 4 of Senate Bill No. 372 of this session is hereby repealed.

33 **Sec. 35.** 1. For the purposes of sections 3 to 26, inclusive, of this
34 act:

35 (a) An electric utility that provides distribution services to an eligible
36 customer who is purchasing energy, capacity or ancillary services from a
37 provider of new electric resources shall charge the eligible customer based
38 upon the rates for the electric utility's distribution services that were on file
39 with the commission on April 1, 2001, until the commission approves a
40 change in those rates and such a change becomes effective.

41 (b) Not later than March 1, 2002, the commission shall establish the
42 initial rates for all other components of electric service which are within
43 the jurisdiction of the commission and which are necessary for a provider
44 of new electric resources to sell energy, capacity and ancillary services to
45 an eligible customer pursuant to the provisions of sections 3 to 26,
46 inclusive, of this act. The commission may establish such initial rates as a
47 part of a general rate application that is pending or filed with the
48 commission on or after the effective date of this act.

49 2. The commission shall:



* A B 6 6 1 R 2 *

- 1 (a) Not later than November 1, 2001, adopt regulations to carry out and
2 enforce the provisions of sections 3 to 26, inclusive, of this act.
3 (b) Not later than March 1, 2002, approve tariffs to carry out and
4 enforce the provisions of section 22 of this act.
5 3. Notwithstanding the provisions of section 25 of this act, the
6 commission is not required to submit a report to the legislative commission
7 for any calendar quarter that ends before October 1, 2001.
8 4. As used in this section, the words and terms defined in sections 4 to
9 16, inclusive, of this act have the meanings ascribed to them in those
10 sections.
11 **Sec. 36.** This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTIONS

Section 2 of Assembly Bill No. 197 of this session:

Sec. 2. NRS 704.965 is hereby amended to read as follows:

704.965 As used in NRS 704.965 to 704.990, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 704.966 to 704.975, inclusive, have the meanings ascribed to them in those sections.

Section 4 of Senate Bill No. 372 of this session:

Sec. 4. *“Biomass” means any organic matter that is available on a renewable basis, including, without limitation:*

1. *Agricultural crops and agricultural wastes and residues;*
2. *Wood and wood wastes and residues;*
3. *Animal wastes;*
4. *Municipal wastes; and*
5. *Aquatic plants.*

