

SENATE BILL NO. 514—COMMITTEE ON COMMERCE AND LABOR

MARCH 26, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Revises authority of public utilities commission of Nevada to regulate certain public utilities, holding companies and other entities. (BDR 58-188)

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; excluding persons who are engaged in providing commercial mobile radio service from the definition of “public utility”; revising the authority of the public utilities commission of Nevada to regulate mergers, acquisitions and changes in control of public utilities, holding companies and other entities; 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.** NRS 704.030 is hereby amended to read as follows:
- 2 704.030 “Public utility” or “utility” does not include:
- 3 1. Persons engaged in the production and sale of natural gas, other than
- 4 sales to the public, or engaged in the transmission of natural gas other than
- 5 as a common carrier transmission or distribution line or system.
- 6 2. Persons engaged in the business of furnishing, for compensation,
- 7 water or services for the disposal of sewage, or both, to persons within this
- 8 state if:
- 9 (a) They serve 25 persons or less; and
- 10 (b) Their gross sales for water or services for the disposal of sewage, or
- 11 both, amounted to \$5,000 or less during the immediately preceding 12
- 12 months.
- 13 3. Persons not otherwise engaged in the business of furnishing,
- 14 producing or selling water or services for the disposal of sewage, or both,
- 15 but who sell or furnish water or services for the disposal of sewage, or
- 16 both, as an accommodation in an area where water or services for the
- 17 disposal of sewage, or both, are not available from a public utility,
- 18 cooperative corporations and associations or political subdivisions engaged
- 19 in the business of furnishing water or services for the disposal of sewage,
- 20 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 *9. Persons who are engaged in providing commercial mobile radio*
14 *service. As used in this subsection, "commercial mobile radio service"*
15 *has the meaning ascribed to it in 47 C.F.R. § 20.3.*

16 **Sec. 2.** NRS 704.329 is hereby amended to read as follows:

17 704.329 1. Except as otherwise provided in subsection ~~4, no person~~
18 ~~may~~ *6, a person shall not* merge with, *directly* acquire, *indirectly* acquire
19 through a subsidiary or affiliate, or otherwise directly or indirectly obtain
20 control of a public utility doing business in this state or ~~an entity~~ *a*
21 *holding company* that holds a controlling interest in ~~such~~ a public utility
22 *doing business in this state* without first submitting to the commission an
23 application for authorization of the proposed *merger, acquisition or other*
24 transaction and obtaining authorization from the commission pursuant to
25 subsection ~~2~~ *4*.

26 *2. Except as otherwise provided in subsection 6:*

27 *(a) A public utility doing business in this state shall not merge with,*
28 *directly* acquire, *indirectly* acquire through a subsidiary or affiliate, or
29 *otherwise* directly or indirectly obtain control of an entity; and

30 *(b) A holding company that holds a controlling interest in a public*
31 *utility doing business in this state shall not merge with, directly* acquire,
32 *or indirectly* acquire through a subsidiary or affiliate, or otherwise
33 *directly or indirectly* obtain control of an entity,
34 *without first submitting to the commission an application for*
35 *authorization of the proposed merger, acquisition or other transaction*
36 *and obtaining authorization from the commission pursuant to*
37 *subsection 4.*

38 *3. Any merger, acquisition or ~~change in control in violation~~ other*
39 *transaction that violates the provisions* of this section *is void and*
40 *unenforceable and* is not valid for any purpose.

41 ~~2~~ *4.* Before authorizing ~~the~~ *a* merger, acquisition or ~~change in~~
42 ~~control of a public utility doing business in this state,~~ *other transaction*
43 *described in subsection 1 or 2,* the commission shall consider the effect of
44 the proposed *merger, acquisition or other* transaction. If the commission
45 finds that the proposed merger, acquisition or ~~change in control~~ *other*
46 *transaction* is in the public interest, the commission shall authorize the
47 proposed *merger, acquisition or other* transaction.



1 ~~13.1~~ 5. If the commission does not issue a final determination regarding
2 the proposed *merger, acquisition or other* transaction within 180 days
3 after the date on which an application or amended application for
4 authorization of the proposed *merger, acquisition or other* transaction was
5 filed with the commission, the *proposed merger, acquisition or other*
6 transaction shall be deemed ~~approved.~~

7 ~~4.1~~ *to be authorized by the commission.*

8 6. The provisions of this section do not apply to the transfer of stock
9 ~~{of a public utility doing business in this state or to the transfer of the~~
10 ~~stock}~~ of an entity ~~{holding a controlling interest in such a public utility.}~~ if
11 a transfer of not more than 25 percent of the common stock of ~~{such a~~
12 ~~public utility or}~~ the entity is proposed.

13 7. *As used in this section, unless the context otherwise requires:*

14 (a) *"Affiliate" means a person who, directly or indirectly through one*
15 *or more intermediaries, controls, is controlled by or is under common*
16 *control with an entity.*

17 (b) *"Entity" means any person other than a natural person, including,*
18 *without limitation, a public utility and a holding company.*

19 (c) *"Person" means:*

20 (1) *A natural person.*

21 (2) *Any form of business or social organization and any other*
22 *nongovernmental legal entity, including, without limitation, a*
23 *corporation, partnership, association, trust or unincorporated*
24 *organization.*

25 (3) *A government, a political subdivision of a government or an*
26 *agency or instrumentality of a government or a political subdivision of a*
27 *government.*

28 **Sec. 3.** 1. If, on or after January 1, 1999, and before the effective
29 date of this act, an electric utility doing business in this state or a holding
30 company that holds a controlling interest in such an electric utility entered
31 into any transaction to merge with, directly acquire, indirectly acquire
32 through a subsidiary or affiliate, or otherwise directly or indirectly obtain
33 control of an entity, the provisions of NRS 704.329, as amended by this
34 act, apply retroactively to the transaction unless, before the effective date
35 of this act:

36 (a) All terms and conditions of the transaction have been satisfied; and

37 (b) All parties to the transaction have fully performed all promises,
38 covenants and obligations under the transaction.

39 2. As used in this section, "electric utility" means any public utility or
40 successor in 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 most
46 recently completed calendar year, had a gross operating revenue of
47 \$250,000,000 or more in the State of Nevada.

48 The term does not include a cooperative association, nonprofit corporation,
49 nonprofit association or provider of electric service which is declared to be



- 1 a public utility pursuant to NRS 704.673 and which provides service only
- 2 to its members.
- 3 **Sec. 4.** This act becomes effective upon passage and approval.

