

CHAPTER.....

AN ACT relating to energy; prohibiting the disclosure of certain information concerning alternative sellers, providers of discretionary natural gas service and providers of new electric resources; requiring certain public utilities, alternative sellers, providers of discretionary natural gas service and providers of new electric resources to keep uniform and detailed accounts of all applicable business transacted in this state and to furnish an annual report to the Commission and affected governmental entities; imposing a civil penalty against an alternative seller, provider of discretionary natural gas service or provider of new electric resources who violates certain provisions; requiring an eligible customer and a customer of a public utility, alternative seller and provider of discretionary natural gas service to pay certain taxes, fees and assessments relating to the purchase of natural gas or energy, capacity or ancillary services under certain circumstances; revising provisions relating to Solar Energy Systems Demonstration Program; providing a penalty; and providing other matters properly relating thereto.

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

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

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

1. *“Affected governmental entity” means a governmental entity for which a tax, fee or assessment is collected pursuant to section 8, 9 or 15 of this act.*

2. “Alternative seller” means a person who sells any competitive, discretionary or potentially competitive component of natural gas service pursuant to NRS 704.993 to 704.999, inclusive.

~~[2-]~~ 3. “Commission” means the Public Utilities Commission of Nevada.

4. *“Provider of new electric resources” has the meaning ascribed to it in NRS 704B.130.*

Sec. 2. NRS 703.190 is hereby amended to read as follows:

703.190 1. Except as otherwise provided in this section, all biennial reports, records, proceedings, papers and files of the Commission must be open at all reasonable times to the public.

2. The Commission shall, upon receipt of a request from a public utility, *alternative seller, provider of discretionary natural gas service or provider of new electric resources*, prohibit the

disclosure of any *applicable* information in ~~fits~~ *the* possession of *the Commission or an affected governmental entity* concerning the public utility , *alternative seller, provider of discretionary natural gas service or provider of new electric resources*, if the Commission determines that the information would otherwise be entitled to protection as a trade secret or confidential commercial information pursuant to NRS 49.325 or 600A.070 or Rule 26(c)(7) of the Nevada Rules of Civil Procedure. Upon making such a determination, the Commission shall establish the period during which the information must not be disclosed and a procedure for protecting the information during and after that period.

Sec. 3. NRS 703.191 is hereby amended to read as follows:

703.191 1. Each public utility *that is* regulated by the Commission *or elects to be regulated under an alternative plan of regulation pursuant to NRS 704.997, and each alternative seller, provider of discretionary natural gas service and provider of new electric resources* shall:

(a) Keep uniform and detailed accounts of all *applicable* business transacted in this state ~~in the manner~~ *as* required by the Commission by regulation, and render them to the Commission *or an affected governmental entity* upon its request.

(b) Furnish an annual report , *with respect to all applicable business transacted in this state*, to the Commission *and each affected governmental entity* in the form and detail which ~~fit~~ *the Commission* prescribes by regulation.

2. The reports required by this section must be prepared for each calendar year and submitted not later than May 15 of the year following the year for which the report is submitted.

3. If the Commission *or an affected governmental entity* finds that necessary information *with respect to applicable business transacted in this state* is not contained in a report submitted pursuant to this section, ~~fit~~ *the Commission or affected governmental entity* may call for the omitted information at any time.

Sec. 4. NRS 703.195 is hereby amended to read as follows:

703.195 1. Except as otherwise provided in subsection 2, any Commissioner , ~~or~~ any officer or employee of the Commission who is designated by the Commission, *or any officer or employee of an affected governmental entity who is designated by the affected governmental entity* may examine during regular business hours the books, accounts, records, minutes, papers and property of any public utility , *alternative seller, provider of discretionary natural gas service or provider of new electric resources* who does business in this state, *with respect to such business, regardless of* whether ~~or not~~ the book, account, record, minutes, paper or property is located within this state.

2. No personnel records of an employee may be examined pursuant to subsection 1 unless the records contain information relating to a matter of public safety or the Commission determines that the examination is required to protect the interests of the public.

3. As used in this section, “personnel records” does not include:

- (a) The name of the employee who is the subject of the record;
- (b) The gross compensation and perquisites of the employee;
- (c) Any record of the business expenses of the employee;
- (d) The title or any description of the position held by the employee;
- (e) The qualifications required for the position held by the employee;
- (f) The business address of the employee;
- (g) The telephone number of the employee at his place of business;
- (h) The work schedule of the employee;
- (i) The date on which the employee began his employment; and
- (j) If applicable, the date on which the employment of the employee was terminated.

Sec. 5. NRS 703.196 is hereby amended to read as follows:

703.196 1. Any books, accounts, records, minutes, papers and property of any public utility , *alternative seller, provider of discretionary natural gas service or provider of new electric resources* that are subject to examination pursuant to NRS 703.190 or 703.195 and are made available to the Commission, any officer or employee of the Commission, *an affected governmental entity, any officer or employee of an affected governmental entity*, the Bureau of Consumer Protection in the Office of the Attorney General or any other person under the condition that the disclosure of such information to the public be withheld or otherwise limited, must not be disclosed to the public unless the Commission first determines that the disclosure is justified.

2. The Commission shall take such actions as are necessary to protect the confidentiality of such information, including, without limitation:

- (a) Granting such protective orders as it deems necessary; and
- (b) Holding closed hearings to receive or examine such information.

3. If the Commission closes a hearing to receive or examine such information, it shall:

- (a) Restrict access to the records and transcripts of such hearings without the prior approval of the Commission or an order of a court of competent jurisdiction authorizing access to the records or transcripts; and

(b) Prohibit any participant at such a hearing from disclosing such information without the prior authorization of the Commission.

4. A representative of the regulatory operations staff of the Commission and the Bureau of Consumer Protection:

(a) May attend any closed hearing held pursuant to this section; and

(b) Have access to any records or other information determined to be confidential pursuant to this section.

5. The Commission shall consider in an open meeting whether the information reviewed or examined in a closed hearing may be disclosed without revealing the confidential subject matter of the information. To the extent the Commission determines the information may be disclosed, the information must become a part of the records available to the public. Information which the Commission determines may not be disclosed must be kept under seal.

Sec. 6. NRS 703.380 is hereby amended to read as follows:

703.380 1. Unless another penalty is specifically provided, any public utility , *alternative seller, provider of discretionary natural gas service or provider of new electric resources*, or any officer, agent or employee of a public utility , *alternative seller, provider of discretionary natural gas service or provider of new electric resources* who:

(a) Violates any ~~[of the provisions]~~ *applicable provision* of this chapter or ~~[chapters]~~ *chapter* 704, *704B*, 705 ~~[and]~~ *or* 708 of NRS;

(b) Violates any rule or regulation of the Commission; or

(c) Fails, neglects or refuses to obey any order of the Commission or any order of a court requiring compliance with an order of the Commission,

is liable for a civil penalty not to exceed \$1,000 per day for each day of the violation and not to exceed \$100,000 for any related series of violations.

2. The amount of any civil penalty to be imposed pursuant to this section, and the propriety of any compromise of a penalty, must be determined by a court of competent jurisdiction upon the complaint of the Commission.

3. Subject to the approval of the court, any civil penalty may be compromised by the Commission. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, must be considered.

4. Any penalty assessed pursuant to this section is not a cost of service ~~[by the]~~ *of a* public utility and may not be included in any

new application by a public utility for a rate adjustment or rate increase.

Sec. 7. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this act.

Sec. 8. 1. *Each provider of discretionary natural gas service shall:*

(a) Collect from each customer who is purchasing natural gas from the provider of discretionary natural gas service any tax, fee or assessment that would be due a governmental entity had the customer continued to purchase natural gas from a public utility that was regulated fully by the Commission pursuant to NRS 704.001 to 704.960, inclusive; and

(b) Remit any tax, fee or assessment collected pursuant to paragraph (a) to the applicable governmental entity.

2. Each person who is responsible for billing a customer who is purchasing natural gas from a provider of discretionary natural gas service shall ensure that the amount which the customer must pay pursuant to this section is set forth as a separate item or entry on each bill submitted to the customer.

3. Upon petition by a governmental entity to which a tax, fee or assessment must be remitted pursuant to this section, the Commission may limit, suspend or revoke any license or other authority conferred by the Commission upon a provider of discretionary natural gas service if the Commission, after providing an appropriate notice and hearing, determines that the provider of discretionary natural gas service has failed to pay the tax, fee or assessment.

Sec. 9. 1. *Each public utility that elects to be regulated under an alternative plan of regulation pursuant to NRS 704.997 shall:*

(a) Collect from each customer who is purchasing natural gas from the public utility under the alternative plan of regulation any tax, fee or assessment that would be due a governmental entity had the customer continued to purchase natural gas from a public utility that was regulated fully by the Commission pursuant to NRS 704.001 to 704.960, inclusive; and

(b) Remit any tax, fee or assessment collected pursuant to paragraph (a) to the applicable governmental entity.

2. Each alternative seller shall:

(a) Collect from each customer who is purchasing natural gas from the alternative seller any tax, fee or assessment that would be due a governmental entity had the customer continued to purchase natural gas from a public utility that was regulated fully by the Commission pursuant to NRS 704.001 to 704.960, inclusive; and

(b) Remit any tax, fee or assessment collected pursuant to paragraph (a) to the applicable governmental entity.

3. *Each person who is responsible for billing a customer who is purchasing natural gas from a public utility under an alternative plan of regulation or from an alternative seller shall ensure that the amount which the customer must pay pursuant to this section is set forth as a separate item or entry on each bill submitted to the customer.*

4. *Upon petition by a governmental entity to which a tax, fee or assessment must be remitted pursuant to this section, the Commission may limit, suspend or revoke any license or other authority conferred by the Commission upon a public utility or alternative seller if the Commission, after providing an appropriate notice and hearing, determines that the public utility or alternative seller has failed to pay the tax, fee or assessment.*

Sec. 10. NRS 704.635 is hereby amended to read as follows:

704.635 When a complaint has been filed with the Commission alleging that a person is providing a service which requires a certificate of public convenience and necessity, or when the Commission has reason to believe that any provision of NRS 704.005 to 704.751, inclusive, *and section 8 of this act* is being violated, the Commission shall investigate the operation and may, after a hearing, issue an order requiring that the person cease and desist from any operation in violation of NRS 704.005 to 704.751, inclusive ~~§~~, *and section 8 of this act*. The Commission shall enforce the order under the powers vested in the Commission by NRS 704.005 to 704.751, inclusive, *and section 8 of this act* or other law.

Sec. 11. NRS 704.640 is hereby amended to read as follows:

704.640 Except as otherwise provided in NRS 704.281 to 704.284, inclusive, any person who:

1. Operates any public utility to which NRS 704.005 to 704.751, inclusive, *and section 8 of this act* and 704.993 to 704.999, inclusive, *and section 9 of this act* apply without first obtaining a certificate of public convenience and necessity or in violation of its terms;

2. Fails to make any return or report required by NRS 704.005 to 704.751, inclusive, *and section 8 of this act* and 704.993 to 704.999, inclusive, *and section 9 of this act* or by the Commission pursuant to NRS 704.005 to 704.751, inclusive, *and section 8 of this act* and 704.993 to 704.999, inclusive ~~§~~, *and section 9 of this act*;

3. Violates, or procures, aids or abets the violating of any provision of NRS 704.005 to 704.751, inclusive, *and section 8 of this act* and 704.993 to 704.999, inclusive ~~§~~, *and section 9 of this act*;

4. Fails to obey any order, decision or regulation of the Commission;

5. Procures, aids or abets any person in his failure to obey the order, decision or regulation; or

6. Advertises, solicits, proffers bids or otherwise holds himself out to perform as a public utility in violation of any of the provisions of NRS 704.005 to 704.751, inclusive, *and section 8 of this act* and 704.993 to 704.999, inclusive, *and section 9 of this act*,

shall be fined not more than \$500.

Sec. 12. NRS 704.660 is hereby amended to read as follows:

704.660 1. Any public utility which furnishes, for compensation, any water for domestic purposes shall furnish each city, town, village or hamlet which it serves with a reasonably adequate supply of water at reasonable pressure for fire protection and at reasonable rates, all to be fixed and determined by the Commission.

2. The duty to furnish a reasonably adequate supply of water provided for in subsection 1 includes the laying of mains with all necessary connections for the proper delivery of the water for fire protection and also the installing of appliances to assure a reasonably sufficient pressure for fire protection.

3. The Commission may fix and determine reasonable rates and prescribe all installations and appliances adequate for the proper utilization and delivery of water for fire protection. The Commission may adopt regulations and practices to be followed by a utility in furnishing water for fire protection, and has complete jurisdiction of all questions arising under the provisions of this section.

4. All proceedings under this section must be conducted pursuant to NRS 703.320 to 703.370, inclusive, and 704.005 to 704.645, inclusive ~~§~~, *and section 8 of this act*. All violations of any order made by the Commission under the provisions of this section are subject to the penalties for similar violations of the provisions of NRS 704.005 to 704.645, inclusive ~~§~~, *and section 8 of this act*.

5. This section applies to and governs all public utilities furnishing water for domestic use on March 26, 1913, unless otherwise expressly provided in the charters, franchises or permits under which those utilities are acting. Each public utility which supplies water for domestic uses after March 26, 1913, is subject to the provisions of this section, regardless of any conditions to the contrary in any charter, franchise or permit of whatever character granted by any county, city, town, village or hamlet within this state, or of any charter, franchise or permit granted by any authority outside this state.

Sec. 13. NRS 704.993 is hereby amended to read as follows:

704.993 As used in NRS 704.993 to 704.999, inclusive, *and section 9 of this act*, unless the context otherwise requires, the words and terms defined in NRS 704.994, 704.995 and 704.996 have the meanings ascribed to them in those sections.

Sec. 14. NRS 704.997 is hereby amended to read as follows:

704.997 1. ~~Upon~~ *Except as otherwise provided in this section, upon* the receipt of a specific request for an exemption by a public utility that supplies natural gas, the Commission may, to the extent it deems necessary, exempt any service offered by the public utility from the strict application of one or more provisions of this chapter. Such an exemption may be made only upon a determination by the Commission, after notice and an opportunity for a hearing, that the service is competitive, discretionary or potentially competitive.

2. The Commission shall adopt regulations necessary to establish an alternative plan of regulation of a public utility that supplies natural gas and that is otherwise subject to regulation pursuant to the provisions of this chapter. The alternative plan may include, but is not limited to, provisions that:

(a) Allow adjustment of the rates charged by the public utility during the period in which the utility elects the alternative plan of regulation.

(b) ~~Specify~~ *Except as otherwise provided in this section, specify* the provisions of this chapter that do not apply to a public utility which elects to be regulated under the alternative plan.

(c) Provide for flexibility of pricing for services that are discretionary, competitive or potentially competitive.

3. A public utility that elects to be regulated under the alternative plan established pursuant to this section ~~is~~:

(a) *Remains subject to the provisions of NRS 704.033 and 704.035 and section 9 of this act; and*

(b) *Is* not subject to the remaining provisions of this chapter to the extent specified pursuant to this section.

4. In providing a potentially competitive service, an affiliate of a provider of a noncompetitive service may use the name or logo, or both, of the provider of noncompetitive service.

5. It is unlawful for an alternative seller to sell any service relating to the supply of natural gas to a customer for his consumption within this state without first having obtained a license from the Commission to do so.

Sec. 15. Chapter 704B of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Commission approves an application that is filed pursuant to NRS 704B.310 or a request that is filed pursuant to

section 7 of Senate Bill No. 125 of this session, the Commission shall order the eligible customer to:

(a) Pay its share of the annual assessment levied pursuant to NRS 704.033 to the Commission and the Bureau of Consumer Protection in the Office of the Attorney General;

(b) Pay any other tax, fee or assessment that would be due a governmental entity had the eligible customer continued to purchase energy, capacity or ancillary services from the electric utility; and

(c) Remit any tax, fee or assessment collected pursuant to paragraph (b) to the applicable governmental entity.

2. Each person or entity that is responsible for billing an eligible customer shall ensure that the amount which the eligible customer must pay pursuant to paragraph (b) of subsection 1 is set forth as a separate item or entry on each bill submitted to the eligible customer.

3. If an eligible customer to whom an order is issued pursuant to subsection 1 thereafter purchases energy, capacity or ancillary services from an alternative provider pursuant to section 7 of Senate Bill No. 125 of this session without obtaining the approval of the Commission, the order issued pursuant to subsection 1 continues to apply to the eligible customer.

4. Upon petition by a governmental entity to which a tax, fee or assessment must be remitted pursuant to this section, the Commission may limit, suspend or revoke any order issued to an eligible customer by the Commission pursuant to NRS 704B.310 and 704B.320 if the Commission, after providing an appropriate notice and hearing, determines that the eligible customer has failed to pay the tax, fee or assessment.

Sec. 16. NRS 704B.310 is hereby amended to read as follows:

704B.310 1. An eligible customer that is purchasing electric service from an electric utility shall not purchase energy, capacity or ancillary services from a provider of new electric resources and an eligible customer that is purchasing energy, capacity or ancillary services from a provider of new electric resources shall not purchase energy, capacity or ancillary services from another provider unless:

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

(b) The Commission approves the application by a written order issued in accordance with the provisions of this section and NRS 704B.320.

The date on which the eligible customer intends to begin purchasing energy, capacity or ancillary services from the provider must not be sooner than the date on which the provider is authorized by NRS

704B.300 to begin selling energy, capacity or ancillary services to the eligible customer.

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

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

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

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

(d) Any other information required pursuant to the regulations adopted by the Commission.

3. Except as otherwise provided in NRS 704B.320, the Commission shall not require the eligible customer or provider to disclose:

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

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

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

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

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

(b) Does not comply with the provisions of NRS 704B.320, if those provisions apply to the proposed transaction.

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

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

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

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

7. If the Commission approves the application of the eligible customer:

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

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

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

(2) Must include, without limitation ~~[, payment]~~ :

(I) Payment by the eligible customer to the electric utility of the eligible customer's load-share portion of any unrecovered balance in the deferred accounts of the electric utility ~~[,]~~ ; and

(II) Payment by the eligible customer of the annual assessment and any other tax, fee or assessment required by section 15 of this act.

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

(a) The application shall be deemed to be approved by the Commission; and

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

Sec. 17. Section 14 of Assembly Bill No. 431 of this session is hereby amended to read as follows:

Sec. 14. 1. The Solar Energy Systems Demonstration Program is hereby created.

2. The Demonstration Program shall have three categories of participants as follows:

- (a) Schools;
- (b) Other public buildings; and
- (c) Private residences and small businesses.

3. A person is eligible to participate in the Demonstration Program if the person:

(a) To install a solar energy system, uses an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(b) For a participant in the category of schools or a participant in the category of public buildings, provides for the public display of the solar energy system, including, without limitation, providing for public demonstrations of the solar energy system and for hands-on experience of the solar energy system by the public.

~~[4. In addition to the requirements of subsection 3, to be eligible to participate in the Demonstration Program, a person must be approved by the Public Utilities Commission of Nevada.~~

~~— 5. The Public Utilities Commission of Nevada shall adopt regulations providing for the qualifications an applicant must meet to qualify to participate in the Demonstration Program in the particular category of:~~

~~— (a) Schools;~~

~~— (b) Other public buildings; or~~

~~— (c) Private residences or small businesses.]~~

Sec. 18. Section 19 of Assembly Bill No. 431 of this session is hereby amended to read as follows:

Sec. 19. 1. After the participant installs the solar energy system included in the Demonstration Program, the Public Utilities Commission of Nevada shall issue to the participant ~~[the following]~~ renewable energy credits for use within the system of renewable energy credits adopted by the Commission pursuant to NRS 704.7821 ~~[-~~:

~~— (a) For a participant in the category of schools or a participant in the category of other public buildings, the participant is entitled to renewable energy credits] equal to [twice] 2.4 times the actual or estimated kilowatt-hour production of the solar energy system . [of the participant for a period of not less than 10 years.~~

~~— (b) For a participant in the category for private residences and small businesses, the participant is entitled to renewable energy credits equal to the actual or estimated kilowatt hour production of the solar energy system of the participant.]~~

2. The Commission shall designate the renewable energy credits issued to the participant pursuant to subsection 1 as renewable energy credits generated or acquired from solar renewable energy systems. The participant may transfer the renewable energy credits to a utility if the participant complies with the regulations adopted by the Commission to complete such a transfer.

3. The Commission shall adopt regulations to provide for the requirements and the procedures that a participant must follow to transfer renewable energy credits from the participant to a utility.

Sec. 19. 1. This act becomes effective on July 1, 2003.
2. Sections 17 and 18 of this act expire by limitation on June 30, 2007.