

SENATE BILL NO. 256—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE PUBLIC UTILITIES COMMISSION)

MARCH 22, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Revises certain provisions relating to regulation of public utilities. (BDR 58-655)

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 public utilities; revising certain provisions relating to the regulation of public utilities; changing the date on which the Public Utilities Commission of Nevada must mail certain report forms to public utilities and other regulated entities; revising certain provisions relating to changes in schedules; revising the period within which the Commission must take action on certain applications; revising the period within which an electric utility must file a general rate application; revising the period within which an electric utility must file an application to clear its deferred accounts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires the Public Utilities Commission of Nevada to mail
2 reporting forms to public utilities and other providers on or before June 1 of each
3 year. The reporting forms are used by the utilities and providers to disclose
4 information regarding gross operating revenue, and that information is used by the
5 Commission to calculate the annual assessment levied on such revenue. (NRS
6 704.033, 704.035)
7 This bill requires the Commission to mail the reporting forms to the utilities
8 and providers on or before June 15 of each year.
9 Existing law requires the Commission to approve or disapprove certain rate
10 applications filed by public utilities within 180 days after the application is filed.
11 (NRS 704.110)



Under this bill, the Commission is generally required to approve or disapprove rate applications filed by public utilities within 210 days after the application is filed. However, for certain public utilities that provide local telephone service, the period for approval or disapproval remains at 180 days.

Existing law requires certain electric utilities to file general rate applications at least once every 24 months. (NRS 704.110)

This bill establishes a specific schedule for those electric utilities to file general rate applications. An electric utility that primarily serves less densely populated counties must file a general rate application on or before October 3, 2005, and at least once every 24 months thereafter, and an electric utility that primarily serves densely populated counties must file a general rate application on or before November 15, 2006, and at least once every 24 months thereafter.

Existing law requires an electric utility using deferred accounting to file annual applications to clear its deferred accounts, unless certain conditions are met which authorize the electric utility to file a semiannual application. (NRS 704.187)

This bill establishes a specific schedule for those electric utilities to file their annual applications. An electric utility that primarily serves less densely populated counties must file an annual application to clear its deferred accounts in December of each year, and an electric utility that primarily serves densely populated counties must file an annual application to clear its deferred accounts in January of each year.

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

Section 1. NRS 704.035 is hereby amended to read as follows:

704.035 1. On or before June ~~14~~ **15** of each year, the Commission shall mail revenue report forms to all public utilities, providers of discretionary natural gas service and alternative sellers under its jurisdiction, to the address of those utilities, providers of discretionary natural gas service and alternative sellers on file with the Commission. The revenue report form serves as notice of the Commission's intent to assess such entities, but failure to notify any such entity does not invalidate the assessment with respect thereto.

2. Each public utility, provider of discretionary natural gas service and alternative seller subject to the provisions of NRS 704.033 shall complete the revenue report referred to in subsection 1, compute the assessment and return the completed revenue report to the Commission accompanied by payment of the assessment and any penalty due, pursuant to the provisions of subsection 5.

3. The assessment is due on July 1 of each year, but may, at the option of the public utility, provider of discretionary natural gas service and alternative seller, be paid quarterly on July 1, October 1, January 1 and April 1.

4. The assessment computed by the public utility, provider of discretionary natural gas service or alternative seller is subject to review and audit by the Commission, and the amount of the



1 assessment may be adjusted by the Commission as a result of the
2 audit and review.

3 5. Any public utility, provider of discretionary natural gas
4 service or alternative seller failing to pay the assessment provided
5 for in NRS 704.033 on or before August 1, or if paying quarterly, on
6 or before August 1, October 1, January 1 or April 1, shall pay, in
7 addition to such assessment, a penalty of 1 percent of the total
8 unpaid balance for each month or portion thereof that the
9 assessment is delinquent, or \$10, whichever is greater, but no
10 penalty may exceed \$1,000 for each delinquent payment.

11 6. When a public utility, provider of discretionary natural gas
12 service or alternative seller sells, transfers or conveys substantially
13 all of its assets or, if applicable, its certificate of public convenience
14 and necessity, the Commission shall determine, levy and collect the
15 accrued assessment for the current year not later than 30 days after
16 the sale, transfer or conveyance, unless the transferee has assumed
17 liability for the assessment. For purposes of this subsection, the
18 jurisdiction of the Commission over the selling, transferring or
19 conveying public utility, provider of discretionary natural gas
20 service or alternative seller continues until it has paid the
21 assessment.

22 7. The Commission may bring an appropriate action in its own
23 name for the collection of any assessment and penalty which is not
24 paid as provided in this section.

25 8. The Commission shall, upon collection, transfer to the
26 Account for the Consumer's Advocate that portion of the
27 assessments collected which belongs to the Consumer's Advocate.

28 **Sec. 2.** NRS 704.110 is hereby amended to read as follows:

29 704.110 Except as otherwise provided in NRS 704.075 and
30 704.68904 to 704.68984, inclusive, or as may otherwise be provided
31 by the Commission pursuant to NRS 704.095 or 704.097 or
32 pursuant to the regulations adopted by the Commission in
33 accordance with subsection 4 of NRS 704.040:

34 1. If a public utility files with the Commission an application to
35 make changes in any schedule, including, without limitation,
36 changes that will result in a discontinuance, modification or
37 restriction of service, the Commission shall investigate the propriety
38 of the proposed changes to determine whether to approve or
39 disapprove the proposed changes. If an electric utility files such an
40 application and the application is a general rate application or an
41 application to clear its deferred accounts, the Consumer's Advocate
42 shall be deemed a party of record.

43 2. Except as otherwise provided in subsections 3 and 11, if a
44 public utility files with the Commission an application to make



1 changes in any schedule, ~~[not later than 180 days after the date on~~
2 ~~which the application is filed,]~~ the Commission shall issue a written
3 order approving or disapproving, in whole or in part, the proposed
4 changes ~~[]~~:

5 *(a) For a public utility that is a PAR carrier, not later than 180*
6 *days after the date on which the application is filed; and*

7 *(b) For all other public utilities, not later than 210 days after*
8 *the date on which the application is filed.*

9 3. If a public utility files with the Commission a general rate
10 application, the public utility shall submit with its application a
11 statement showing the recorded results of revenues, expenses,
12 investments and costs of capital for its most recent 12 months for
13 which data were available when the application was prepared. In
14 determining whether to approve or disapprove any increased rates,
15 the Commission shall consider evidence in support of the increased
16 rates based upon actual recorded results of operations for the same
17 12 months, adjusted for increased revenues, any increased
18 investment in facilities, increased expenses for depreciation, certain
19 other operating expenses as approved by the Commission and
20 changes in the costs of securities which are known and are
21 measurable with reasonable accuracy at the time of filing and which
22 will become effective within 6 months after the last month of those
23 12 months, but the public utility shall not place into effect any
24 increased rates until the changes have been experienced and
25 certified by the public utility to the Commission and the
26 Commission has approved the increased rates. The Commission
27 shall also consider evidence supporting expenses for depreciation,
28 calculated on an annual basis, applicable to major components of the
29 public utility's plant placed into service during the recorded test
30 period or the period for certification as set forth in the application.
31 Adjustments to revenues, operating expenses and costs of securities
32 must be calculated on an annual basis. Within 90 days after the date
33 on which the certification required by this subsection is filed with
34 the Commission, or within ~~[180 days after the date on which the~~
35 ~~general rate application is filed with the Commission,]~~ *the period set*
36 *forth in subsection 2,* whichever time is longer, the Commission
37 shall make such order in reference to the increased rates as is
38 required by this chapter. An electric utility shall file a general rate
39 application pursuant to this subsection at least once every 24 months
40 ~~[]~~ *based on the following schedule:*

41 *(a) An electric utility that primarily serves less densely*
42 *populated counties shall file a general rate application on or*
43 *before October 3, 2005, and at least once every 24 months*
44 *thereafter.*



1 ***(b) An electric utility that primarily serves densely populated***
2 ***counties shall file a general rate application on or before***
3 ***November 15, 2006, and at least once every 24 months thereafter.***

4 4. If a public utility files with the Commission an application to
5 make changes in any schedule and the Commission does not issue a
6 final written order regarding the proposed changes within the time
7 required by this section, the proposed changes shall be deemed to be
8 approved by the Commission.

9 5. If a public utility files with the Commission a general rate
10 application, the public utility shall not file with the Commission
11 another general rate application until all pending general rate
12 applications filed by that public utility have been decided by the
13 Commission unless, after application and hearing, the Commission
14 determines that a substantial financial emergency would exist if the
15 public utility is not permitted to file another general rate application
16 sooner. The provisions of this subsection do not prohibit the public
17 utility from filing with the Commission, while a general rate
18 application is pending, an application to recover the increased cost
19 of purchased fuel, purchased power, or natural gas purchased for
20 resale pursuant to subsection 6 or an application to clear its deferred
21 accounts pursuant to subsection 7, if the public utility is otherwise
22 authorized by those provisions to file such an application.

23 6. A public utility may file an application to recover the
24 increased cost of purchased fuel, purchased power, or natural gas
25 purchased for resale once every 30 days. The provisions of this
26 subsection do not apply to an electric utility using deferred
27 accounting pursuant to NRS 704.187.

28 7. Except as otherwise provided in subsection 8 and subsection
29 4 of NRS 704.100, if an electric utility using deferred accounting
30 pursuant to NRS 704.187 files an application to clear its deferred
31 accounts and to change one or more of its rates based upon changes
32 in the costs for purchased fuel or purchased power, the Commission,
33 after a public hearing and by an appropriate order:

34 (a) Shall allow the electric utility to clear its deferred accounts
35 by refunding any credit balance or recovering any debit balance
36 over a period not to exceed 3 years, as determined by the
37 Commission.

38 (b) Shall not allow the electric utility to recover any debit
39 balance, or portion thereof, in an amount that would result in a rate
40 of return during the period of recovery that exceeds the rate of
41 return authorized by the Commission in the most recently completed
42 rate proceeding for the electric utility.

43 8. Before allowing an electric utility to clear its deferred
44 accounts pursuant to subsection 7, the Commission shall determine
45 whether the costs for purchased fuel and purchased power that the



1 electric utility recorded in its deferred accounts are recoverable and
2 whether the revenues that the electric utility collected from
3 customers in this State for purchased fuel and purchased power are
4 properly recorded and credited in its deferred accounts. The
5 Commission shall not allow the electric utility to recover any costs
6 for purchased fuel and purchased power that were the result of any
7 practice or transaction that was undertaken, managed or performed
8 imprudently by the electric utility.

9 9. If an electric utility files an application to clear its deferred
10 accounts pursuant to subsection 7 while a general rate application is
11 pending, the electric utility shall:

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

14 (b) Supplement its general rate application with the same
15 information, if such information was not submitted with the general
16 rate application.

17 10. A utility facility identified in a 3-year plan submitted
18 pursuant to NRS 704.741 and accepted by the Commission for
19 acquisition or construction pursuant to NRS 704.751 and the
20 regulations adopted pursuant thereto shall be deemed to be a prudent
21 investment. The utility may recover all just and reasonable costs of
22 planning and constructing such a facility.

23 11. A PAR carrier may, in accordance with this section and
24 NRS 704.100, file with the Commission a request to approve or
25 change any schedule to provide volume or duration discounts to
26 rates for telecommunication service for an offering made to all or
27 any class of business customers. The Commission may conduct a
28 hearing relating to the request, which must occur within 45 days
29 after the date the request is filed with the Commission. The request
30 and schedule shall be deemed approved if the request and schedule
31 are not disapproved by the Commission within 60 days after the date
32 the Commission receives the request.

33 12. As used in this section:

34 (a) "Electric utility" has the meaning ascribed to it in
35 NRS 704.187.

36 (b) *"Electric utility that primarily serves densely populated*
37 *counties" has the meaning ascribed to it in NRS 704.187.*

38 (c) *"Electric utility that primarily serves less densely populated*
39 *counties" has the meaning ascribed to it in NRS 704.187.*

40 (d) "PAR carrier" has the meaning ascribed to it in
41 NRS 704.68942.

42 **Sec. 3.** NRS 704.187 is hereby amended to read as follows:

43 704.187 1. Except as otherwise provided in section 36 of
44 chapter 16, Statutes of Nevada 2001, beginning on March 1, 2001,
45 an electric utility that purchases fuel or power shall use deferred



1 accounting by recording upon its books and records in deferred
2 accounts all increases and decreases in costs for purchased fuel and
3 purchased power that are prudently incurred by the electric utility.

4 2. An electric utility using deferred accounting shall include in
5 its annual report to the Commission a statement showing, for the
6 period of recovery, the allocated rate of return for each of its
7 operating departments in this State using deferred accounting. If,
8 during the period of recovery, the rate of return for any operating
9 department using deferred accounting is greater than the rate of
10 return authorized by the Commission in the most recently completed
11 rate proceeding for the electric utility, the Commission shall order
12 the electric utility that recovered costs for purchased fuel or
13 purchased power through its rates during the reported period to
14 transfer to the next energy adjustment period that portion of the
15 amount recovered by the electric utility that exceeds the authorized
16 rate of return.

17 3. Except as otherwise provided in ~~[subsection 4.]~~ *this section*,
18 an electric utility using deferred accounting shall file an *annual*
19 application to clear its deferred accounts ~~[after the end of each 12-~~
20 ~~month period of deferred accounting.]~~ *based on the following*
21 *schedule:*

22 (a) *An electric utility that primarily serves less densely*
23 *populated counties shall file an annual application to clear its*
24 *deferred accounts on December 1, 2005, and in December of each*
25 *year thereafter on a date specified by the Commission.*

26 (b) *An electric utility that primarily serves densely populated*
27 *counties shall file an annual application to clear its deferred*
28 *accounts on January 17, 2006, and in January of each year*
29 *thereafter on a date specified by the Commission.*

30 4. An electric utility using deferred accounting may file ~~[an] a~~
31 *semiannual* application to clear its deferred accounts ~~[after the end~~
32 ~~of a 6 month period of deferred accounting]~~ if the net ~~[increase or~~
33 ~~decrease]~~ *change* in revenues necessary to clear its deferred
34 accounts for the ~~[6 month]~~ *reported* period is more than 5 percent of
35 the total revenues generated by the electric utility during that period
36 from its rates for purchased fuel and purchased power most recently
37 authorized by the Commission.

38 5. ~~[The Commission shall adopt regulations prescribing the~~
39 ~~period within which an electric utility must file an application to~~
40 ~~clear its deferred accounts after the end of a period of deferred~~
41 ~~accounting.~~

42 ~~—6.]~~ As used in this section:

43 (a) "Application to clear its deferred accounts" means an
44 application filed by an electric utility pursuant to this section and
45 subsection 7 of NRS 704.110.



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

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

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

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

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

➤ The term does not include 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.

(d) "Electric utility that primarily serves densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 400,000 or more than it does from customers located in counties whose population is less than 400,000.

(e) "Electric utility that primarily serves less densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is less than 400,000 than it does from customers located in counties whose population is 400,000 or more.

Sec. 4. NRS 704.7815 is hereby amended to read as follows:

704.7815 "Renewable energy system" means:

1. A facility or energy system that:

(a) Uses renewable energy or energy from a qualified energy recovery process to generate electricity; ~~and~~

~~—(b) Transmits or distributes the electricity that it generates from renewable energy or energy from a qualified energy recovery process via:~~

~~—(1) A power line which is dedicated to the transmission or distribution of electricity generated from renewable energy or energy from a qualified energy recovery process and which is connected to a facility or system owned, operated or controlled by a provider of electric service; or~~



~~(2) A power line which is shared with not more than one facility or energy system generating electricity from nonrenewable energy and which is connected to a facility or system owned, operated or controlled by a provider of electric service.]~~

(b) Either:

(1) Is directly connected to a provider of electric service through the use of a dedicated transmission or distribution line; or

(2) Schedules and delivers, either directly or through a contract path transaction, the electricity it generates from a renewable energy system or from a qualified energy recovery process to a provider of electric service; and

(c) Has a commercial operation date on or after July 1, 2005, has applied to, petitioned for or sought an advisory opinion from the Commission to be registered as a renewable energy system before July 1, 2005, or is currently providing electricity to a provider of electric service using renewable energy or energy from a qualified energy recovery process. As used in this paragraph, "commercial operation date" means the date the facility first produces electrical energy, for any purpose, at its current location or any former location.

2. A solar energy system that reduces the consumption of electricity, natural gas or propane.

3. A net metering system used by a customer-generator pursuant to NRS 704.766 to 704.775, inclusive.

Sec. 5. Section 35 of chapter 16, Statutes of Nevada 2001, as last amended by chapter 604, Statutes of Nevada 2001, at page 3269, is hereby amended to read as follows:

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

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

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

3. If, before March 1, 2001, an electric utility incurred any costs for fuel or purchased power, including, without limitation, any costs for fuel or purchased power recorded or carried on the books and records of the electric utility, and those costs were not recovered or could not be recovered pursuant to a fuel and purchased power rider placed into



1 effect by the electric utility before March 1, 2001, the electric
2 utility is not entitled, on or after March 1, 2001, to recover
3 any of those costs for fuel or purchased power from
4 customers, and the commission shall not allow the electric
5 utility to recover any of those costs for fuel or purchased
6 power from customers.

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

9 (a) The commission shall not take any further action on
10 the comprehensive energy plan, and each electric utility that
11 jointly filed the comprehensive energy plan shall be deemed
12 to have withdrawn the comprehensive energy plan;

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

17 (c) The revenues for services provided by each electric
18 utility for the period of March 1, 2001, to March 31, 2001,
19 inclusive, from the rates that each electric utility placed into
20 effect on March 1, 2001, pursuant to the comprehensive
21 energy plan shall be deemed to be a credit in the electric
22 utility's deferred accounts.

23 5. On or before October 1, 2001, each electric utility that
24 primarily serves densely populated counties shall file a
25 general rate application pursuant to subsection 3 of NRS
26 704.110, as amended by this act and Assembly Bill No. 661
27 of this session. On or before December 1, 2001, each electric
28 utility that primarily serves densely populated counties shall
29 file an application to clear its deferred accounts pursuant to
30 subsection 7 of NRS 704.110, as amended by this act and
31 Assembly Bill No. 661 of this session. After such an electric
32 utility files the application to clear its deferred accounts, the
33 commission shall investigate and determine whether the rates
34 that the electric utility placed into effect on March 1, 2001,
35 pursuant to the comprehensive energy plan are just and
36 reasonable and reflect prudent business practices. On the date
37 on which the commission issues a final order on the general
38 rate application, the commission shall issue a final order on
39 the electric utility's application to clear its deferred accounts.
40 The total rates to provide electric service that were in effect
41 on April 1, 2001, for the electric utility must remain in effect
42 until the date on which the commission issues a final order on
43 the general rate application. The commission shall not adjust
44 the rates of the electric utility during this period unless such
45 an adjustment is absolutely necessary to avoid rates that are



1 confiscatory under the Constitution of the United States or the
2 constitution of this state. The commission:

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

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

9 ➤ After the electric utility files the general rate application
10 that is required by this subsection, the electric utility shall file
11 general rate applications in accordance with ~~[subsection 3 of~~
12 ~~NRS 704.110, as amended by this act and Assembly Bill No.~~
13 ~~661 of this session.] chapter 704 of NRS.~~ After the electric
14 utility files the application to clear its deferred accounts that
15 is required by this subsection, the electric utility shall file
16 applications to clear its deferred accounts in accordance with
17 ~~[section 19 of this act and subsection 7 of NRS 704.110, as~~
18 ~~amended by this act and Assembly Bill No. 661 of this~~
19 ~~session.] chapter 704 of NRS.~~

20 6. On or before December 1, 2001, each electric utility
21 that primarily serves less densely populated counties shall file
22 a general rate application pursuant to subsection 3 of NRS
23 704.110, as amended by this act and Assembly Bill No. 661
24 of this session. On or before February 1, 2002, each electric
25 utility that primarily serves less densely populated counties
26 shall file an application to clear its deferred accounts pursuant
27 to subsection 7 of NRS 704.110, as amended by this act and
28 Assembly Bill No. 661 of this session. After such an electric
29 utility files the application to clear its deferred accounts, the
30 commission shall investigate and determine whether the rates
31 that the electric utility placed into effect on March 1, 2001,
32 pursuant to the comprehensive energy plan are just and
33 reasonable and reflect prudent business practices. On the date
34 on which the commission issues a final order on the general
35 rate application, the commission shall issue a final order on
36 the electric utility's application to clear its deferred accounts.
37 The total rates to provide electric service that were in effect
38 on April 1, 2001, for the electric utility must remain in effect
39 until the date on which the commission issues a final order on
40 the general rate application. The commission shall not adjust
41 the rates of the electric utility during this period unless such
42 an adjustment is absolutely necessary to avoid rates that are
43 confiscatory under the Constitution of the United States or the
44 constitution of this state. The commission:



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

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

7 ➤ After the electric utility files the general rate application
8 that is required by this subsection, the electric utility shall file
9 general rate applications in accordance with ~~[subsection 3 of~~
10 ~~NRS 704.110, as amended by this act and Assembly Bill No.~~
11 ~~661 of this session.]~~ *chapter 704 of NRS.* After the electric
12 utility files the application to clear its deferred accounts that
13 is required by this subsection, the electric utility shall file
14 applications to clear its deferred accounts in accordance with
15 ~~[section 19 of this act and subsection 7 of NRS 704.110, as~~
16 ~~amended by this act and Assembly Bill No. 661 of this~~
17 ~~session.]~~ *chapter 704 of NRS.*

18 **Sec. 6.** This act becomes effective upon passage and approval.

