ASSEMBLY BILL NO. 260–ASSEMBLYWOMAN ALLEN

MARCH 7, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing the portfolio standards of providers of electric service. (BDR 58-1050)

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 energy; revising various provisions governing the portfolio standards of providers of electric service; enacting certain requirements regarding the system of portfolio energy credits; revising the method for calculating portfolio energy credits under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

To encourage and accelerate the development of new renewable energy projects and to create successful markets for electricity generated by those projects, existing law requires the Public Utilities Commission of Nevada to establish portfolio standards for certain providers of electric service that require the providers to generate, acquire or save a certain amount of electricity each year from portfolio energy systems. The Commission is also required to establish a system of portfolio energy credits that may be used by a provider to comply with the portfolio standards. The portfolio standards apply to the primary electric utilities regulated by the Commission, and they also apply to providers of new electric resources that are authorized by existing law to compete with the primary electric utilities and sell electricity to certain eligible customers. (NRS 704.7801-704.7828, chapter 704B of NRS)

Section 4 of this bill provides that the system of portfolio energy credits established by the Commission must allow a provider of new electric resources to comply with the portfolio standards, or any portion thereof, through the acquisition, purchase or transfer of portfolio energy credits from persons or entities that are not customers of the provider.

Under existing law, a provider is entitled to one portfolio energy credit for each kilowatt-hour of electricity that the provider saves from certain energy efficiency measures if: (1) the measure is installed at the service location of a retail customer; and (2) the costs of the acquisition or installation of the measure have been directly reimbursed, in whole or in part, by the provider. (NRS 704.7801-704.7828)

Section 5 of this bill provides that if the provider has directly paid or reimbursed less than 100 percent of the costs of the acquisition or installation of the energy efficiency measure: (1) the provider is entitled only to a percentage of the portfolio energy credit in proportion to the percentage of the costs that have been directly paid or reimbursed by the provider; and (2) the retail customer is entitled to the remaining percentage of the portfolio energy credit.

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

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

"Provider of new electric resources" means a provider of new electric resources that is selling electricity to an eligible customer for consumption in this State pursuant to the provisions of chapter 704B of NRS.

Sec. 2. NRS 704.7801 is hereby amended to read as follows:

704.7801 As used in NRS 704.7801 to 704.7828, inclusive, unless the context otherwise requires, the words and terms defined in NRS 704.7802 to 704.7819, inclusive, ***and section 1 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 704.7808 is hereby amended to read as follows:

704.7808 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 chapter 704B of NRS.]~~

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.

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

Sec. 4. NRS 704.7821 is hereby amended to read as follows:

704.7821 1. For each provider of electric service, the Commission shall establish a portfolio standard. The portfolio standard must require each provider to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is:

(a) For calendar years 2005 and 2006, not less than 6 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(b) For calendar years 2007 and 2008, not less than 9 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(c) For calendar years 2009 and 2010, not less than 12 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(d) For calendar years 2011 and 2012, not less than 15 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(e) For calendar years 2013 and 2014, not less than 18 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(f) For calendar year 2015 and for each calendar year thereafter, not less than 20 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

2. In addition to the requirements set forth in subsection 1, the portfolio standard for each provider must require that:

(a) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not less than 5 percent of that amount must be generated or acquired from solar renewable energy systems.

(b) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures. If the provider intends to use energy efficiency measures to comply with its portfolio standard during any calendar year, of the total amount of electricity saved from energy efficiency measures for which the provider seeks to obtain portfolio energy credits pursuant to this paragraph, at least 50 percent of that amount must be saved from energy efficiency measures installed at service locations of residential customers of the provider, unless a different percentage is approved by the Commission.

(c) If the provider acquires or saves electricity from a portfolio energy system or efficiency measure pursuant to a renewable energy contract or energy efficiency contract with another party:

(1) The term of the contract must be not less than 10 years, unless the other party agrees to a contract with a shorter term; and

(2) The terms and conditions of the contract must be just and reasonable, as determined by the Commission. If the provider is a utility provider and the Commission approves the terms and conditions of the contract between the utility provider and the other party, the contract and its terms and conditions shall be deemed to be a prudent investment and the utility provider may recover all just and reasonable costs associated with the contract.

3. If, for the benefit of one or more of its retail customers in this State, the provider has directly reimbursed, in whole or in part, the costs of the acquisition or installation of a solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

4. The Commission shall adopt regulations that establish a system of portfolio energy credits that may be used by a provider to comply with its portfolio standard. ***The system of portfolio energy credits must allow a provider of new electric resources to comply with its portfolio standard, or any portion thereof, through the acquisition, purchase or transfer of portfolio energy credits from persons or entities that are not its customers.***

5. Except as otherwise provided in subsection 6, each provider shall comply with its portfolio standard during each calendar year.

6. If, for any calendar year, a provider is unable to comply with its portfolio standard through the generation of electricity from its own renewable energy systems or, if applicable, through the use of portfolio energy credits, the provider shall take actions to acquire or save electricity pursuant to one or more renewable energy contracts or energy efficiency contracts. If the Commission determines that, for a calendar year, there is not or will not be a sufficient supply of electricity or a sufficient amount of energy savings made available to the provider pursuant to renewable energy contracts and energy efficiency contracts with just and reasonable terms and conditions, the Commission shall exempt the provider, for that calendar year, from the remaining requirements of its portfolio standard or from any appropriate portion thereof, as determined by the Commission.

7. The Commission shall adopt regulations that establish:

(a) Standards for the determination of just and reasonable terms and conditions for the renewable energy contracts and energy efficiency contracts that a provider must enter into to comply with its portfolio standard.

(b) Methods to classify the financial impact of each long-term renewable energy contract and energy efficiency contract as an additional imputed debt of a utility provider. The regulations must allow the utility provider to propose an amount to be added to the cost of the contract, at the time the contract is approved by the Commission, equal to a compensating component in the capital structure of the utility provider. In evaluating any proposal made by a utility provider pursuant to this paragraph, the Commission shall consider the effect that the proposal will have on the rates paid by the retail customers of the utility provider.

8. As used in this section:

(a) "Energy efficiency contract" means a contract to attain energy savings from one or more energy efficiency measures owned, operated or controlled by other parties.

(b) "Renewable energy contract" means a contract to acquire electricity from one or more renewable energy systems owned, operated or controlled by other parties.

(c) "Terms and conditions" includes, without limitation, the price that a provider must pay to acquire electricity pursuant to a renewable energy contract or to attain energy savings pursuant to an energy efficiency contract.

Sec. 5. NRS 704.78215 is hereby amended to read as follows:

704.78215 1. Except as otherwise provided in this section or by specific statute, a provider is entitled to one portfolio energy credit for each kilowatt-hour of electricity that the provider generates, acquires or saves from a portfolio energy system or efficiency measure.

2. ~~[The]~~ ***Except as otherwise provided in subsection 3, the*** Commission may adopt regulations that give a provider more than one portfolio energy credit for each kilowatt-hour of electricity saved by the provider during its peak load period from energy efficiency measures.

3. If a provider intends to use an energy efficiency measure to comply with its portfolio standard, the provider is entitled to 100 percent of each portfolio energy credit attributable to the energy efficiency measure only if 100 percent of the costs of the acquisition or installation of the measure have been directly paid or reimbursed by the provider. If the provider has directly paid or reimbursed less than 100 percent of the costs of the acquisition or installation of the measure:

(a) The provider is entitled only to a percentage of each portfolio energy credit in proportion to the percentage of the costs of the acquisition or installation of the measure that have been directly paid or reimbursed by the provider; and

(b) The retail customer is entitled to the remaining percentage of each portfolio energy credit.

Sec. 6. This act becomes effective on July 1, 2007.

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