

SENATE BILL NO. 95—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE PUBLIC UTILITIES COMMISSION OF NEVADA)

FEBRUARY 15, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing public utilities.
(BDR 58-552)

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; removing certain entities from regulation as public utilities; eliminating the requirement that the Public Utilities Commission of Nevada conduct a hearing before ordering certain changes relating to railroad crossings; eliminating the requirement that the Commission convene a hearing not later than 60 days after a plan to increase the supply of electricity or decrease the demand for electricity is filed with the Commission; revising provisions governing the exemption of electric generating plants; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Public Utilities Commission of Nevada to regulate public utilities in this State. (NRS 704.001) Existing law defines the term “public utility.” (NRS 704.020) **Section 1** of this bill removes radio and broadcasting companies, companies that own cars used as part of railroad trains and companies that operate a ditch, flume, tunnel or tunnel and drainage system from regulation as public utilities.

Existing law authorizes the Commission, after an investigation and hearing, to order certain changes relating to railroad crossings. (NRS 704.300) **Section 2** of this bill removes the requirement that the Commission conduct a hearing before ordering such changes.

Existing law requires that an electric utility submit a plan to increase its supply of electricity or decrease the demands made on its system by its customers to the Commission every 3 years. (NRS 704.741) Existing law requires the Commission to convene a hearing on such a plan not later than 60 days after the plan is



submitted to the Commission. (NRS 704.746) **Section 5** of this bill removes the requirement that the hearing be convened within that 60-day period. Existing law also requires the Commission to accept the plan as filed or specify the portions of the plan it finds inadequate within 135 days after the plan is filed. (NRS 704.751) **Section 5** extends that deadline to 180 days after the plan is filed for certain portions of the plan, but retains the 135-day deadline with respect to an amendment to an accepted plan.

Existing law sets forth a permitting process for the construction of a utility facility to minimize the environmental impact of the facility. (NRS 704.820-704.900) Existing law exempts from the permitting process certain electric generating plants which use renewable energy as their primary source of energy to generate electricity and which have a limited generating capacity. (NRS 704.860) **Section 6** of this bill increases the maximum allowable generating capacity of such exempt electric generating plants.

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

Section 1. NRS 704.020 is hereby amended to read as follows:
704.020 1. "Public utility" or "utility" includes:

(a) Any person who owns, operates, manages or controls any railroad or part of a railroad as a common carrier in this State, or cars or other equipment used thereon, or bridges, terminals, or sidetracks, or any docks or wharves or storage elevators used in connection therewith, whether or not they are owned by the railroad.

(b) Any telephone company that provides a telecommunication service to the public, but only with regard to those operations of the telephone company which consist of providing a telecommunication service to the public.

~~[(c) Any radio or broadcasting company or instrumentality that provides a common or contract service.~~

~~—(d) Any company that owns cars of any kind or character, used and operated as a part of railroad trains, in or through this State. All duties required of and penalties imposed upon any railroad or any officer or agent thereof are, insofar as applicable, required of and imposed upon the owner or operator of any telephone company that provides a telecommunication service to the public, any radio or broadcasting company or instrumentality that provides a common or contract service and any company that owns cars of any kind or character, used and operated as a part of railroad trains in or through this State, and their officers and agents, and the Commission may supervise and control all such companies, instrumentalities and persons to the same extent as railroads.]~~

2. "Public utility" or "utility" also includes:

(a) ~~[Any person who owns, operates or controls any ditch, flume, tunnel or tunnel and drainage system, charging rates, fares or tolls, directly or indirectly.~~



1 ~~—(b)~~ Any plant or equipment, or any part of a plant or equipment,
2 within this State for the production, delivery or furnishing for or to
3 other persons, including private or municipal corporations, heat, gas,
4 coal slurry, light, power in any form or by any agency, water for
5 business, manufacturing, agricultural or household use, or sewerage
6 service, whether or not within the limits of municipalities.

7 ~~(e)~~ (b) Any system for the distribution of liquefied petroleum
8 gas to 10 or more users.

9 ➔ The Commission may supervise, regulate and control all such
10 utilities, subject to the provisions of this chapter and to the exclusion
11 of the jurisdiction, regulation and control of such utilities by any
12 municipality, town or village, unless otherwise provided by law.

13 3. The provisions of this chapter and the term “public utility”
14 apply to all railroads, express companies, car companies and all
15 associations of persons, whether or not incorporated, that do any
16 business as a common carrier upon or over any line of railroad
17 within this State.

18 **Sec. 2.** NRS 704.300 is hereby amended to read as follows:

19 704.300 1. After an investigation ~~[and hearing, which has~~
20 ~~been]~~ initiated either upon the Commission’s own motion ~~[.]~~ or as
21 the result of the filing of a formal application or complaint by the
22 Department of Transportation, the board of county commissioners
23 of any county, the town board or council of any town or
24 municipality, or any railroad company, the Commission may
25 ~~[determine, and]~~ order for the safety of the traveling public:

26 (a) The elimination, alteration, addition or change of a highway
27 crossing or crossings over any railroad at grade, or above or below
28 grade, including its approaches and surface.

29 (b) Changes in the method of crossing at grade, or above or
30 below grade.

31 (c) The closing of a crossing and the substitution of another
32 therefor.

33 (d) The removal of obstructions to the public view in
34 approaching any crossing.

35 (e) Such other details of use, construction and operation as may
36 be necessary to make grade-crossing elimination, changes and
37 betterments for the protection of the public and the prevention of
38 accidents effective.

39 2. The Commission shall order that the cost of any elimination,
40 removal, addition, change, alteration or betterment so ordered
41 must be divided and paid in such proportion by the State, county,
42 town or municipality and the railroad or railroads interested as is
43 provided according to the circumstances occasioning the cost ~~[.]~~ in
44 NRS 704.305.



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3. ~~[A] If the Commission chooses to conduct a hearing before issuing an order pursuant to subsection 1, all~~ costs incurred by reason of ~~{any hearing held under this section before the Commission,}~~ the hearing, including , but not limited to , publication of notices, reporting, transcripts and rental of hearing room, must be apportioned 50 percent to the governmental unit or units affected and 50 percent to the railroad or railroads.

Sec. 3. NRS 704.673 is hereby amended to read as follows:

704.673 ~~{Every}~~

1. *Except as otherwise provided in subsection 2, every* cooperative association or nonprofit corporation or association and every other supplier of services described in this chapter supplying such services for the use of the public and for the use of its own members is hereby declared to be affected with a public interest, to be a public utility, and to be subject to the jurisdiction, control and regulation of the Commission and to the provisions of this chapter .
~~{; but in}~~

2. *In* the case of the acquisition of the certificate or all or any part of the territory of a public utility, as defined in paragraph ~~{(b)}~~ (a) of subsection 2 of NRS 704.020, by a cooperative association or nonprofit corporation or association which ~~{prior to}~~ before April 26, 1963, had supplied services for the use of its own members only, ~~{this section shall not be}~~ the provisions of subsection 1 are not applicable for a period of 6 months or the expiration of such reasonable extension or extensions of ~~{such}~~ that 6-month period as may be ordered by the Commission, during which period the cooperative association or nonprofit corporation or association may enroll as its members the customers of the public utility whose certificate or territory was acquired so as to make such acquiring cooperative association or nonprofit corporation or association subject only to the limited jurisdiction, control and regulation of the Commission, and only to the specific provisions of chapter 704 of NRS as provided by NRS 704.675.

Sec. 4. NRS 704.746 is hereby amended to read as follows:

704.746 1. ~~{Not more than 60 days after}~~ After a utility has filed its plan ~~{}~~ pursuant to NRS 704.741, the Commission shall convene a public hearing on the adequacy of the plan.

2. At the hearing any interested person may make comments to the Commission regarding the contents and adequacy of the plan.

3. After the hearing , the Commission shall determine whether:

(a) The forecast requirements of the utility are based on substantially accurate data and an adequate method of forecasting.

(b) The plan identifies and takes into account any present and projected reductions in the demand for energy that may result from measures to improve energy efficiency in the industrial,



1 commercial, residential and energy producing sectors of the area
2 being served.

3 (c) The plan adequately demonstrates the economic,
4 environmental and other benefits to this State and to the customers
5 of the utility, associated with the following possible measures and
6 sources of supply:

- 7 (1) Improvements in energy efficiency;
8 (2) Pooling of power;
9 (3) Purchases of power from neighboring states or countries;
10 (4) Facilities that operate on solar or geothermal energy or
11 wind;
12 (5) Facilities that operate on the principle of cogeneration or
13 hydrogeneration; and
14 (6) Other generation facilities.

15 4. The Commission may give preference to the measures and
16 sources of supply set forth in paragraph (c) of subsection 3 that:

- 17 (a) Provide the greatest economic and environmental benefits to
18 the State;
19 (b) Are consistent with the provisions of this section; and
20 (c) Provide levels of service that are adequate and reliable.

21 5. The Commission shall:

- 22 (a) Adopt regulations which determine the level of preference to
23 be given to those measures and sources of supply; and
24 (b) Consider the value to the public of using water efficiently
25 when it is determining those preferences.

26 **Sec. 5.** NRS 704.751 is hereby amended to read as follows:

27 704.751 1. ~~[Within 135 days after]~~ *After* a utility has filed
28 ~~[its plan,]~~ *the plan required pursuant to NRS 704.741,* the
29 Commission shall issue an order accepting the plan as filed or
30 specifying any portions of the plan it deems to be inadequate ~~[.]~~:

31 *(a) Within 135 days for any portion of the plan relating to the*
32 *energy supply plan for the utility for the 3 years covered by the*
33 *plan; and*

34 *(b) Within 180 days for all portions of the plan not described*
35 *in paragraph (a).*

36 2. *If a utility files an amendment to a plan, the Commission*
37 *shall issue an order accepting the amendment as filed or*
38 *specifying any portions of the amendment it deems to be*
39 *inadequate within 135 days of the filing of the amendment.*

40 3. All prudent and reasonable expenditures made to develop
41 the utility's plan, including environmental, engineering and other
42 studies, must be recovered from the rates charged to the utility's
43 customers.

44 **Sec. 6.** NRS 704.860 is hereby amended to read as follows:

45 704.860 "Utility facility" means:



1 1. Electric generating plants and their associated facilities,
2 except:

3 (a) Electric generating plants and their associated facilities that
4 are or will be located entirely within the boundaries of a county
5 whose population is 100,000 or more; or

6 (b) Electric generating plants and their associated facilities
7 which use or will use renewable energy, as defined in NRS
8 704.7811, as their primary source of energy to generate electricity
9 and which have or will have a generating capacity of not more than
10 ~~[150 kilowatts,]~~ 35 megawatts, including, without limitation, a net
11 metering system, as defined in NRS 704.771.

12 ➤ As used in this subsection, "associated facilities" includes,
13 without limitation, any facilities for the storage, transmission or
14 treatment of water, including, without limitation, facilities to supply
15 water or for the treatment or disposal of wastewater, which support
16 or service an electric generating plant.

17 2. Electric transmission lines and transmission substations that:

18 (a) Are designed to operate at 200 kilovolts or more;

19 (b) Are not required by local ordinance to be placed
20 underground; and

21 (c) Are constructed outside any incorporated city.

22 3. Gas transmission lines, storage plants, compressor stations
23 and their associated facilities when constructed outside:

24 (a) Any incorporated city; and

25 (b) Any county whose population is 100,000 or more.

26 4. Water storage, transmission and treatment facilities, other
27 than facilities for the storage, transmission or treatment of water
28 from mining operations.

29 5. Sewer transmission and treatment facilities.

30 **Sec. 7.** Notwithstanding any other provision of law to the
31 contrary:

32 1. Perfection or notice provided by a security instrument
33 covering real or personal property located in this State which was
34 filed with the Secretary of State or recorded in the office of a county
35 recorder before July 1, 2007, in compliance with the provisions of
36 chapter 105 of NRS, by a person who, on and after July 1, 2007, is
37 not subject to regulation as a public utility pursuant to NRS
38 704.020, as amended by section 1 of this act, remains effective for
39 the period provided by the law in effect at the time of its filing or
40 recordation.

41 2. Such an instrument may be filed anew pursuant to NRS
42 104.9101 to 104.9709, inclusive, and if so filed has the effect given
43 to security instruments originally filed pursuant to NRS 104.9101 to
44 104.9709, inclusive. The priority of such a filing dates from the time
45 that the security interest was first filed with the Secretary of State or



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- 1 recorded in the office of a county recorder and not from the date the
- 2 instrument is filed anew pursuant to NRS 104.9101 to 104.9709,
- 3 inclusive.
- 4 **Sec. 8.** This act becomes effective on July 1, 2007.

