

## Amendment No. 230

Assembly Amendment to Assembly Bill No. 103

(BDR 58-564)

**Proposed by:** Assembly Committee on Commerce and Labor**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

| ASSEMBLY ACTION |                          |      |                          | Initial and Date | SENATE ACTION |              |                          |      | Initial and Date         |       |
|-----------------|--------------------------|------|--------------------------|------------------|---------------|--------------|--------------------------|------|--------------------------|-------|
| Adopted         | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____            |               | Adopted      | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____ |
| Concurred In    | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            |               | Concurred In | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____ |
| Receded         | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            |               | Receded      | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____ |

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

TMC/BJE



Date: 4/15/2007

A.B. No. 103—Revises provisions regarding general rate applications filed by public utilities. (BDR 58-564)



## ASSEMBLY BILL NO. 103—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE PUBLIC UTILITIES COMMISSION OF NEVADA)

FEBRUARY 14, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions regarding general rate applications filed by public utilities. (BDR 58-564)

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; altering schedules under which electric utilities must file general rate applications with the Public Utilities Commission of Nevada; authorizing public utilities to provide, with a general rate application, a statement of reasonably known and measurable changes for specified periods beyond the date the application is filed; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides for public utilities to apply to the Public Utilities Commission of Nevada for proposed rate changes and provides a schedule under which electric utilities must file general rate applications with the Commission every 24 months. (NRS 704.110) **Section 2** of this bill revises that schedule to require filing every 36 months.

Existing law requires public utilities to provide financial data for the prior 12 months when filing general rate applications and authorizes natural gas utilities to provide ~~forecasted~~ **expected** financial data for the period ending 210 days after the general rate application is filed. (NRS 704.110) **Section 2** of this bill authorizes **all** public utilities ~~except PAR carriers~~ to provide such ~~forecasted~~ **expected** financial data when filing general rate applications and ~~provides that, in the instance of a PAR carrier filing a general rate application, the period that the forecasted financial data may cover is 180 days.~~ **revises the provisions governing the consideration of that data by the Commission. Section 2 also deletes certain provisions relating to PAR carriers.**

**Section 1** of this bill ~~repeals~~ **revises** the requirement that the Commission report biennially to the Legislature on the amount of assessments charged public utilities ~~to~~ **to require the reporting upon the request of the Legislative Commission.** (NRS 703.145) **Section 3** of this bill ~~repeals~~ **revises** the requirement that the Commission report quarterly to the Legislative Commission on proposed transactions between customers and providers of new electric sources ~~to~~ **to require the reporting upon the request of the Legislative Commission.** (NRS 704B.210)

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

**Section 1.** NRS 703.145 is hereby amended to read as follows:

703.145 1. Any public utility subject to the jurisdiction of the Commission which elects to maintain its books and records outside the State of Nevada shall, in addition to any other assessment and fees provided for by law, be assessed by the Commission for an amount equal to the travel expenses and the excess of the out-of-state subsistence allowances over the in-state subsistence allowances, as fixed by NRS 281.160, of Commission members and staff, for investigations, inspections and audits required to be performed outside this State.

2. Any public utility subject to the jurisdiction of the Commission shall, in addition to any other assessment and fees provided for by law, be assessed by the Commission for an amount equal to the travel expenses and the excess of the out-of-state subsistence allowances over the in-state subsistence allowances, as fixed by NRS 281.160, of Commission members and staff, for investigations, audits and appearances required to be performed out of this State as a result of interventions in:

(a) Federal Energy Regulatory Commission proceedings as authorized in NRS 703.152; or

(b) Actions involving the Federal Communications Commission or other federal regulatory agencies,

↳ if the intervention is made to benefit the public utility or its customers.

3. The assessments provided for by this section must be determined by the Commission upon the completion of each such investigation, inspection, audit or appearance and are due ~~and payable~~ within 30 days ~~of~~ after receipt by the affected utility of the notice of assessment. The total amount assessed by the Commission in 1 year pursuant to subsection 2 must not exceed \$50,000.

4. The records of the Commission relating to the additional costs incurred by reason of the necessary additional travel must be open for inspection by the affected utility at any time within the 30-day period.

5. The Commission shall, not later than 2 business days after receiving a written request from the Legislative Commission, report to the Legislature ~~no later than February 1 of each odd-numbered year~~ the amount of assessments charged public utilities pursuant to subsection 2 during the previous biennium ~~pursuant to subsection 2,~~ or any other period specified by the Legislative Commission.

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

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

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

2. Except as otherwise provided in ~~subsections 3 and 12,~~ subsection 3, if a public utility files with the Commission an application to make changes in any schedule, the Commission shall , not later than 210 days after the application is

1 filed, issue a written order approving or disapproving, in whole or in part, the  
2 proposed changes. ~~It~~

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

5 ~~(b) For all other public utilities, not later than 210 days after the date on which~~  
6 ~~the application is filed.~~

7 3. If a public utility files with the Commission a general rate application, the  
8 public utility shall submit with its application a statement showing the recorded  
9 results of revenues, expenses, investments and costs of capital for its most recent 12  
10 months for which data were available when the application was prepared. Except as  
11 otherwise provided in subsection 4, in determining whether to approve or  
12 disapprove any increased rates, the Commission shall consider evidence in support  
13 of the increased rates based upon actual recorded results of operations for the same  
14 12 months, adjusted for increased revenues, any increased investment in facilities,  
15 increased expenses for depreciation, certain other operating expenses as approved  
16 by the Commission and changes in the costs of securities which are known and are  
17 measurable with reasonable accuracy at the time of filing and which will become  
18 effective within 6 months after the last month of those 12 months, but the public  
19 utility shall not place into effect any increased rates until the changes have been  
20 experienced and certified by the public utility to the Commission and the  
21 Commission has approved the increased rates. The Commission shall also consider  
22 evidence supporting expenses for depreciation, calculated on an annual basis,  
23 applicable to major components of the public utility's plant placed into service  
24 during the recorded test period or the period for certification as set forth in the  
25 application. Adjustments to revenues, operating expenses and costs of securities  
26 must be calculated on an annual basis. Within 90 days after the date on which the  
27 certification required by this subsection is filed with the Commission, or within the  
28 period set forth in subsection 2, whichever time is longer, the Commission shall  
29 make such order in reference to the increased rates as is required by this chapter.  
30 An electric utility shall file a general rate application pursuant to this subsection at  
31 least once every ~~[24]~~ 36 months based on the following schedule:

32 (a) An electric utility that primarily serves less densely populated counties  
33 shall file a general rate application not later than 5 p.m. on or before ~~[October]~~ ~~[3,~~  
34 ~~2005.]~~ the first Monday in December 2007, and at least once every ~~[24]~~ 36  
35 months thereafter.

36 (b) An electric utility that primarily serves densely populated counties shall file  
37 a general rate application not later than 5 p.m. on or before ~~[November]~~ ~~[15, 2006.]~~  
38 the first Monday in December 2008, and at least once every ~~[24]~~ 36 months  
39 thereafter.

40 4. In addition to submitting the statement required pursuant to subsection 3, a  
41 public utility ~~[which purchases natural gas for resale]~~ may submit with its general  
42 rate application a statement showing the effects, on an annualized basis, of all  
43 expected changes in circumstances. If such a statement is filed, ~~[by a public utility~~  
44 ~~other than a PAR carrier.]~~ it must include all increases and decreases in revenue  
45 and expenses which may occur within 210 days after the date on which its general  
46 rate application is filed with the Commission if such expected changes in  
47 circumstances are reasonably known and are measurable with reasonable accuracy.  
48 ~~[If such a statement is filed by a PAR carrier, it must include all increases or~~  
49 ~~decreases in revenue and expenses which may occur within 180 days after the~~  
50 ~~date on which its general rate application is filed with the Commission if such~~  
51 ~~expected changes in circumstances are reasonably known and are measurable~~  
52 ~~with reasonable accuracy.]~~ If a public utility submits such a statement, the public  
53 utility has the burden of proving that the expected changes in circumstances set

1 forth in the statement are reasonably known and are measurable with reasonable  
2 accuracy. The Commission shall consider expected changes in circumstances to  
3 be reasonably known and measurable with reasonable accuracy if the expected  
4 changes in circumstances consist of specific and identifiable events or programs  
5 rather than general trends, patterns or developments, have an objectively high  
6 probability of occurring to the degree, in the amount and at the time expected, are  
7 primarily measurable by recorded or verifiable revenues and expenses and are  
8 easily and objectively calculated, with the calculation of the expected changes  
9 relying only secondarily on estimates, forecasts, projections or budgets. If the  
10 Commission determines that the public utility has met its burden of proof:

11 (a) The Commission shall consider the statement submitted pursuant to this  
12 subsection and evidence relevant to the statement ,including all reasonable  
13 projected or forecasted offsets in revenue and expenses that are directly  
14 attributable to or associated with the expected changes in circumstances under  
15 consideration, in addition to the statement required pursuant to subsection 3 as  
16 evidence in establishing just and reasonable rates for the public utility; and

17 (b) The public utility is not required to file with the Commission the  
18 certification that would otherwise be required pursuant to subsection 3.

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

23 6. If a public utility files with the Commission a general rate application, the  
24 public utility shall not file with the Commission another general rate application  
25 until all pending general rate applications filed by that public utility have been  
26 decided by the Commission unless, after application and hearing, the Commission  
27 determines that a substantial financial emergency would exist if the public utility is  
28 not permitted to file another general rate application sooner. The provisions of this  
29 subsection do not prohibit the public utility from filing with the Commission, while  
30 a general rate application is pending, an application to recover the increased cost of  
31 purchased fuel, purchased power, or natural gas purchased for resale pursuant to  
32 subsection 7 or an application to clear its deferred accounts pursuant to subsection  
33 9, if the public utility is otherwise authorized by those provisions to file such an  
34 application.

35 7. A public utility may file an application to recover the increased cost of  
36 purchased fuel, purchased power, or natural gas purchased for resale once every 30  
37 days. The provisions of this subsection do not apply to:

38 (a) An electric utility using deferred accounting pursuant to NRS 704.187; or

39 (b) A public utility which purchases natural gas for resale and which adjusts its  
40 rates on a quarterly basis between annual rate adjustment applications pursuant to  
41 subsection 8.

42 8. A public utility which purchases natural gas for resale must request  
43 approval from the Commission to adjust its rates on a quarterly basis between  
44 annual rate adjustment applications based on changes in the public utility's  
45 recorded costs of natural gas purchased for resale. If the Commission approves such  
46 a request:

47 (a) The public utility shall file written notice with the Commission before the  
48 public utility makes a quarterly rate adjustment between annual rate adjustment  
49 applications. A quarterly rate adjustment is not subject to the requirements for  
50 notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer  
51 session pursuant to subsection 1 of NRS 704.069.

52 (b) The public utility shall provide written notice of each quarterly rate  
53 adjustment to its customers by including the written notice with a customer's

1 regular monthly bill. The public utility shall begin providing such written notice to  
2 its customers not later than 30 days after the date on which the public utility files its  
3 written notice with the Commission pursuant to paragraph (a). The written notice  
4 that is included with a customer's regular monthly bill:

5 (1) Must be printed separately on fluorescent-colored paper and must not  
6 be attached to the pages of the bill; and

7 (2) Must include the following:

8 (I) The total amount of the increase or decrease in the public utility's  
9 revenues from the rate adjustment, stated in dollars and as a percentage;

10 (II) The amount of the monthly increase or decrease in charges for  
11 each class of customer or class of service, stated in dollars and as a percentage;

12 (III) A statement that customers may send written comments or  
13 protests regarding the rate adjustment to the Commission; and

14 (IV) Any other information required by the Commission.

15 (c) The public utility shall file an annual rate adjustment application with the  
16 Commission. The annual rate adjustment application is subject to the requirements  
17 for notice and a hearing pursuant to NRS 703.320 and the requirements for a  
18 consumer session pursuant to subsection 1 of NRS 704.069.

19 (d) The proceeding regarding the annual rate adjustment application must  
20 include a review of each quarterly rate adjustment and a review of the transactions  
21 and recorded costs of natural gas included in each quarterly rate adjustment and the  
22 annual rate adjustment application. There is no presumption of reasonableness or  
23 prudence for any quarterly rate adjustment or for any transactions or recorded costs  
24 of natural gas included in any quarterly rate adjustment or the annual rate  
25 adjustment application, and the public utility has the burden of proving  
26 reasonableness and prudence in the proceeding.

27 (e) The Commission shall not allow the public utility to recover any recorded  
28 costs of natural gas which were the result of any practice or transaction that was  
29 unreasonable or was undertaken, managed or performed imprudently by the public  
30 utility, and the Commission shall order the public utility to adjust its rates if the  
31 Commission determines that any recorded costs of natural gas included in any  
32 quarterly rate adjustment or the annual rate adjustment application were not  
33 reasonable or prudent.

34 9. Except as otherwise provided in subsection 10 and subsection 5 of NRS  
35 704.100, if an electric utility using deferred accounting pursuant to NRS 704.187  
36 files an application to clear its deferred accounts and to change one or more of its  
37 rates based upon changes in the costs for purchased fuel or purchased power, the  
38 Commission, after a public hearing and by an appropriate order:

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

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

46 10. Before allowing an electric utility to clear its deferred accounts pursuant  
47 to subsection 9, the Commission shall determine whether the costs for purchased  
48 fuel and purchased power that the electric utility recorded in its deferred accounts  
49 are recoverable and whether the revenues that the electric utility collected from  
50 customers in this State for purchased fuel and purchased power are properly  
51 recorded and credited in its deferred accounts. The Commission shall not allow the  
52 electric utility to recover any costs for purchased fuel and purchased power that

were the result of any practice or transaction that was undertaken, managed or performed imprudently by the electric utility.

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

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

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

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

~~13. [A PAR carrier may, in accordance with this section and NRS 704.100, file with the Commission a request to approve or change any schedule to provide volume or duration discounts to rates for telecommunication service for an offering made to all or any class of business customers. The Commission may conduct a hearing relating to the request, which must occur within 45 days after the date the request is filed with the Commission. The request and schedule shall be deemed approved if the request and schedule are not disapproved by the Commission within 60 days after the date the Commission receives the request.]~~

~~14.]~~ As used in this section:

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

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

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

~~[(d) "PAR carrier" has the meaning ascribed to it in NRS 704.68942.]~~

**Sec. 3.** NRS 704B.210 is hereby ~~repealed~~ **amended to read as follows:**

704B.210 ~~[Not]~~ **The Commission shall, not later than 30 2 business days after [the end of each calendar quarter, the Commission shall] receiving a request in writing from the Legislative Commission,** submit to the Legislative Commission a written report which summarizes for ~~[that calendar quarter]~~ **the period requested by the Legislative Commission;**

1. Each application which was filed with the Commission pursuant to the provisions of this chapter and which requested approval of a proposed transaction between an eligible customer and a provider of new electric resources;

2. The information that the eligible customer included with the application;

3. The findings of the Commission concerning the effect of the proposed transaction on the public interest; and

4. Whether the Commission approved the application and, if so, the effective date of the proposed transaction, the terms and conditions of the proposed transaction, and the terms, conditions and payments ordered by the Commission.

**Sec. 4.** This act becomes effective on July 1, 2007.

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#### TEXT OF REPEALED SECTION

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~~704B.210 Submission of report to Legislative Commission. Not later than 30 days after the end of each calendar quarter, the Commission shall submit to the~~

~~Legislative Commission a written report which summarizes for that calendar quarter:~~

~~1. Each application which was filed with the Commission pursuant to the provisions of this chapter and which requested approval of a proposed transaction between an eligible customer and a provider of new electric resources;~~

~~2. The information that the eligible customer included with the application;~~

~~3. The findings of the Commission concerning the effect of the proposed transaction on the public interest; and~~

~~4. Whether the Commission approved the application and, if so, the effective date of the proposed transaction, the terms and conditions of the proposed transaction, and the terms, conditions and payments ordered by the Commission.]~~