

ASSEMBLY BILL NO. 355—ASSEMBLYMEN GOEDHART; COBB,
GUSTAVSON, HAMBRICK, HARDY, SETTELMAYER,
STEWART AND WOODBURY

MARCH 16, 2009

JOINT SPONSOR: SENATOR MCGINNESS

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions related to certain public utilities
that furnish water or sewage disposal.
(BDR 58-693)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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; providing simplified procedures
and methodologies for certain public utilities to change
rates for water or sewage disposal; and providing other
matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Public Utilities Commission of Nevada to adopt regulations that provide for a simplified procedure or methodology for certain public utilities to change rates for water or services for the disposal of sewage. (NRS 704.095) **Section 1** of this bill modifies the requirements to qualify for simplified procedures and methodologies which must provide for the filing of a letter of advice for certain rate changes.

Sections 3 and 4 of this bill modify the exemption for certain public utilities from certain filing and resource planning requirements. (NRS 704.110, 704.661)



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

Section 1. NRS 704.095 is hereby amended to read as follows:

704.095 **1.** The Commission shall adopt regulations which provide ~~[a simplified procedure or methodology]~~ *simplified procedures or methodologies* for a change of rates for those public utilities which furnish water or services for the disposal of sewage, or both, to persons within this State for compensation, and which:

~~[1-]~~ **(a)** Serve 3,000 or fewer persons; and

~~[2-]~~ **(b)** Had during the immediately preceding 12-month period gross sales for water or services for the disposal of sewage ~~[, or both,]~~ amounting to ~~[\$1,000,000]~~ \$2,000,000 or less. *If a public utility furnishes both water and services for the disposal of sewage, its gross sales for each service must be considered separately for determining whether the public utility qualifies under this paragraph for either service.*

2. *The regulations adopted by the Commission pursuant to subsection 1 must provide, without limitation, for the filing of letters of advice to change rates based on a nationally recognized inflation index approved by the Commission.*

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 and 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097:

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 annual deferred energy accounting adjustment application, the Consumer's Advocate shall be deemed a party of record.

2. Except as otherwise provided in 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 date on which the application is filed, issue a written order approving or disapproving, in whole or in part, the proposed changes.

3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for



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

28 (a) An electric utility that primarily serves less densely
29 populated counties shall file a general rate application not later than
30 5 p.m. on or before the first Monday in December 2007, and at least
31 once every 36 months thereafter.

32 (b) An electric utility that primarily serves densely populated
33 counties shall file a general rate application not later than 5 p.m. on
34 or before the first Monday in December 2008, and at least once
35 every 36 months thereafter.

36 (c) A public utility that furnishes water for municipal, industrial
37 or domestic purposes or services for the disposal of sewage, or both,
38 which had an annual gross operating revenue of ~~[\$500,000]~~
39 **\$2,000,000** or more for at least 1 year during the immediately
40 preceding 3 years and which had not filed a general rate application
41 with the Commission on or after July 1, 2005, shall file a general
42 rate application on or before June 30, 2008, and at least once every
43 36 months thereafter unless waived by the Commission pursuant to
44 standards adopted by regulation of the Commission. *If a public*
45 *utility furnishes both water and services for the disposal of*



sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service.

(d) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of ~~[\$500,000]~~ *\$2,000,000* or more for at least 1 year during the immediately preceding 3 years and which had filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2009, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. *If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service.*

➤ The Commission shall adopt regulations setting forth standards for waivers pursuant to paragraphs (c) and (d) and for including the costs incurred by the public utility in preparing and presenting the general rate application before the effective date of any change in rates.

4. In addition to submitting the statement required pursuant to subsection 3, a public utility may submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances. If such a statement is filed, it must include all increases and decreases in revenue and expenses which may occur within 210 days after the date on which its general rate application is filed with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy. If a public utility submits such a statement, the public utility has the burden of proving that the expected changes in circumstances set forth in the statement are reasonably known and are measurable with reasonable accuracy. The Commission shall consider expected changes in circumstances to be reasonably known and measurable with reasonable accuracy if the expected changes in circumstances consist of specific and identifiable events or programs rather than general trends, patterns or developments, have an objectively high probability of occurring to the degree, in the amount and at the time expected, are primarily measurable by recorded or verifiable revenues and expenses and are easily and objectively calculated, with the calculation of the expected changes relying only secondarily on estimates, forecasts, projections or budgets. If the Commission determines that the public utility has met its burden of proof:



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

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

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

6. If a public utility files with the Commission a general rate application, the public utility shall not file with the Commission another general rate application until all pending general rate applications filed by that public utility have been decided by the Commission unless, after application and hearing, the Commission determines that a substantial financial emergency would exist if the public utility is not permitted to file another general rate application sooner. The provisions of this subsection do not prohibit the public utility from filing with the Commission, while a general rate application is pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection 7, a quarterly rate adjustment pursuant to subsection 8 or 9, any information relating to deferred accounting requirements pursuant to NRS 704.185 or an annual deferred energy accounting adjustment application pursuant to NRS 704.187, if the public utility is otherwise authorized to so file by those provisions.

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

(a) An electric utility which is required to adjust its rates on a quarterly basis pursuant to subsection 9; or

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

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



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

(b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

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

(2) Must include the following:

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

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

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

(IV) Any other information required by the Commission.

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

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

(e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was undertaken,



1 managed or performed imprudently by the public utility, and the
2 Commission shall order the public utility to adjust its rates if the
3 Commission determines that any recorded costs of natural gas
4 included in any quarterly rate adjustment or the annual rate
5 adjustment application were not reasonable or prudent.

6 9. An electric utility shall adjust its rates on a quarterly basis
7 based on changes in the public utility's recorded costs of purchased
8 fuel or purchased power in the following manner:

9 (a) An electric utility shall file written notice with the
10 Commission on or before August 15, 2007, and every quarter
11 thereafter of the quarterly rate adjustment to be made by the electric
12 utility for the following quarter. The first quarterly rate adjustment
13 by the electric utility will take effect on October 1, 2007, and each
14 subsequent quarterly rate adjustment will take effect every quarter
15 thereafter. A quarterly rate adjustment is not subject to the
16 requirements for notice and a hearing pursuant to NRS 703.320 or
17 the requirements for a consumer session pursuant to subsection 1 of
18 NRS 704.069.

19 (b) Each electric utility shall provide written notice of each
20 quarterly rate adjustment to its customers by including the written
21 notice with a customer's regular monthly bill. The electric utility
22 shall begin providing such written notice to its customers not later
23 than 30 days after the date on which the electric utility files a written
24 notice with the Commission pursuant to paragraph (a). The written
25 notice that is included with a customer's regular monthly bill:

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

28 (2) Must include the following:

29 (I) The total amount of the increase or decrease in the
30 electric utility's revenues from the rate adjustment, stated in dollars
31 and as a percentage;

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

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

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

39 (c) An electric utility shall file an annual deferred energy
40 accounting adjustment application pursuant to NRS 704.187 with
41 the Commission. The annual deferred energy accounting adjustment
42 application is subject to the requirements for notice and a hearing
43 pursuant to NRS 703.320 and the requirements for a consumer
44 session pursuant to subsection 1 of NRS 704.069.



(d) The proceeding regarding the annual deferred energy accounting adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of purchased fuel and purchased power included in each quarterly rate adjustment and the annual deferred energy accounting adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application, and the electric utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the electric utility to recover any recorded costs of purchased fuel and purchased power which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the electric utility, and the Commission shall order the electric utility to adjust its rates if the Commission determines that any recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application were not reasonable or prudent.

10. If an electric utility files an annual deferred energy accounting adjustment application pursuant to subsection 9 and NRS 704.187 while a general rate application is pending, the electric utility shall:

(a) Submit with its annual deferred energy accounting adjustment application 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.

11. 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.

12. 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" 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



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1 population is 400,000 or more than it does from customers located
2 in counties whose population is less than 400,000.

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

9 **Sec. 4.** NRS 704.661 is hereby amended to read as follows:

10 704.661 1. A public utility that furnishes water for municipal,
11 industrial or domestic purposes or services for the disposal of
12 sewage, or both, and which had an annual gross operating revenue
13 of \$1,000,000 or more for at least 1 year during the immediately
14 preceding 3 years shall, on or before March 1 of every third year, in
15 the manner specified by the Commission, submit a plan to the
16 Commission to provide sufficient water or services for the disposal
17 of sewage to satisfy the demand made on its system by its
18 customers. *If a public utility furnishes both water and services for*
19 *the disposal of sewage, its annual gross operating revenue for*
20 *each service must be considered separately for determining*
21 *whether the public utility meets the requirements of this*
22 *subsection for either service.*

23 2. The Commission shall adopt regulations to provide for the
24 contents of and the method and schedule for preparing, submitting,
25 reviewing and approving ~~the~~ a plan ~~required~~ *submitted* pursuant
26 to subsection 1.

27 3. Within 180 days after a public utility has filed a plan
28 pursuant to subsection 1, the Commission shall issue an order
29 accepting the plan as filed or specifying any portion of the plan it
30 finds to be inadequate.

31 4. If a plan submitted pursuant to subsection 1 and accepted by
32 the Commission pursuant to subsection 3 and any regulations
33 adopted pursuant to subsection 2 identifies a facility for acquisition
34 or construction, the facility shall be deemed to be a prudent
35 investment and the public utility may recover all just and reasonable
36 costs of planning and constructing or acquiring the facility.

37 5. All prudent and reasonable expenditures made by a public
38 utility to develop a plan filed pursuant to subsection 1, including,
39 without limitation, any environmental, engineering or other studies,
40 must be recovered from the rates charged to the public utility's
41 customers.

42 **Sec. 5.** This act becomes effective on July 1, 2009.

