

Amendment No. 438

Assembly Amendment to Assembly Bill No. 355

(BDR 58-693)

Proposed by: Assembly Committee on Commerce and Labor**Amends:** Summary: No Title: Yes 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 dashed underlining* is newly added transitory language.

AM/EGO



Date: 4/20/2009

A.B. No. 355—Revises provisions related to certain public utilities that furnish water or sewage disposal. (BDR 58-693)



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:

~~[Section 1 of this bill provides simplified procedures.] 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 ~~[(1)] of this bill~~ modifies the requirements to qualify for ~~the~~ simplified procedures ~~[(2)] exempts a qualified utility from certain rate change requirements; (3) allows~~ and methodologies which must provide for the filing of a letter of advice ~~to be used~~ for certain rate changes. ~~[(4)] provides for a simplified application to be used for certain rate changes; (5) provides a time limit for certain decisions of the Public Utilities Commission of Nevada; and (6) provides, with regard to the simplified procedures, requirements related to discovery and data requests, depositions, prepared testimony and settlement conferences.]~~~~

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 ~~for a simplified procedure or methodology~~ simplified procedures or methodologies***
[(1. A public utility that qualifies under subsection 2 may, in its discretion, use the procedures set forth in this section)] for a change of rates ***for those public utilities which*** ~~for water or services for the disposal of sewage.~~

~~2. To qualify to use the procedures set forth in this section for a change of rates for water or services for the disposal of sewage, a public utility must~~ 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 ~~must~~~~

~~(a) For a change of rates for water:~~

~~(1) Furnish water to 3,000 or fewer persons; and~~

~~(2) Have 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] \$2,000,000~~ or less ~~[-]~~ and

~~(b) For a change of rates for services for the disposal of sewage:~~

~~(1) Furnish services for the disposal of sewage to 3,000 or fewer persons; and~~

~~(2) Have had during the immediately preceding 12-month period gross sales for services for the disposal of sewage amounting to \$3,000,000 or less.~~

~~3. If a public utility qualifies under subsection 2, the qualifying utility:~~

~~(a) Is exempt from the requirements of paragraphs (c) and (d) of subsection 2 of NRS 704.110 and NRS 704.661.~~

~~(b) May change its rates for water or services for the disposal of sewage pursuant to this section. If the qualifying utility proceeds pursuant to this section, the qualifying utility:~~

~~(1) Is exempt from the requirements of paragraphs (a), (f) and (h) of subsection 1 of NRS 704.100.~~

~~(2) May file with the Commission a letter of advice, without any related application or hearing, to change its rates if the change is a percentage change which is the same as the previous annual percentage change of the Consumer Price Index (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor, or its successor, regardless of the amount the annual gross operating revenue of the qualifying utility may increase due to the change. A qualifying utility may change its rates pursuant to this paragraph not more than once per year.~~

~~(3) May file with the Commission a simplified application, as prescribed by the Commission, to change its rates if the change is not the same as the previous annual percentage change of the Consumer Price Index (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor, or its successor. The Commission may hold a hearing regarding the simplified application.~~

~~4. If a qualifying utility files a letter of advice or simplified application pursuant to subsection 3, the Commission shall, not later than 120 days following its receipt of the letter of advice or simplified application, issue a written order approving or disapproving, in whole or in part, the proposed changes in rates.~~

~~5. For any hearing conducted concerning a simplified application filed pursuant to this section:~~

~~(a) In regard to discovery before the hearing:~~

~~(1) Only 30 data requests, with each subpart of a larger request counting towards the total of 30, may be made of a party to the hearing unless the Commission, upon a showing of good cause, orders otherwise; and~~

~~(2) Depositions may not be taken of a party unless the Commission, upon a showing of good cause, orders otherwise;~~

~~(b) Prepared testimony is not required before the hearing unless the Commission, upon a showing of good cause, orders otherwise; and~~

~~(c) In regard to settlement conferences before the hearing:~~

~~(1) An initial settlement conference must be held not later than 45 days after the filing of an application pursuant to this section;~~

~~(2) A second settlement conference must be held at least 20 days before the date of the hearing; and~~

~~(3) The parties shall meet and confer in good faith at each settlement conference to resolve as many issues as possible.~~

~~6. The Commission shall adopt regulations necessary to carry out the provisions of this section.~~

~~7. As used in this section, "data request" means a comprehensive vehicle for obtaining discovery and includes, without limitation, interrogatories, requests for admission and requests for production of documents or inspection of property. 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. ~~[NRS 704.100 is hereby amended to read as follows:~~

~~704.100 1. Except as otherwise provided in NRS 704.075, 704.095 and 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the Commission pursuant to NRS [704.095 or] 704.097;~~

~~(a) A public utility shall not make changes in any schedule, unless the public utility;~~

~~(1) Files with the Commission an application to make the proposed changes and the Commission approves the proposed changes pursuant to NRS 704.110; or~~

~~(2) Files the proposed changes with the Commission using a letter of advice in accordance with the provisions of paragraph (f);~~

~~(b) A public utility shall adjust its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8 of NRS 704.110 based on changes in the public utility's recorded costs of natural gas purchased for resale.~~

~~(c) An electric utility shall, between annual deferred energy accounting adjustment applications filed pursuant to NRS 704.187, adjust its rates on a quarterly basis pursuant to subsection 9 of NRS 704.110.~~

~~(d) A public utility shall post copies of all proposed schedules and all new or amended schedules in the same offices and in substantially the same form, manner and places as required by NRS 704.070 for the posting of copies of schedules that are currently in force.~~

~~(e) A public utility may not set forth as justification for a rate increase any items of expense or rate base that previously have been considered and disallowed by the Commission, unless those items are clearly identified in the application and new facts or considerations of policy for each item are advanced in the application to justify a reversal of the prior decision of the Commission.~~

~~(f) Except as otherwise provided in paragraph (g), if the proposed change in any schedule does not change any rate or will result in an increase in annual gross operating revenue, as certified by the public utility, in an amount that does not exceed \$2,500;~~

~~(1) The public utility may file the proposed change with the Commission using a letter of advice in lieu of filing an application; and~~

~~(2) The Commission shall determine whether it should dispense with a hearing regarding the proposed change.~~

~~(g) If the applicant is a small-scale provider of last resort and the proposed change in any schedule will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that does not exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less, the Commission shall determine whether it should dispense with a hearing regarding the proposed change.~~

~~(h) In making the determination pursuant to paragraph (f) or (g), the Commission shall first consider all timely written protests, any presentation that the Regulatory Operations Staff of the Commission may desire to present, the application of the public utility and any other matters deemed relevant by the Commission.~~

~~2. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.1. (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 ~~to 704.095~~ 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 which data were available when the application was prepared. Except as otherwise provided in subsection 4, in determining whether to approve or disapprove any increased rates, the Commission shall consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the date on which the certification required by this subsection is filed with the Commission, or within the period set forth in subsection 2, whichever time is longer, the Commission shall make such order in reference to the increased rates as is required by this chapter.

1 The following public utilities shall each file a general rate application pursuant to
2 this subsection based on the following schedule:

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

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

9 (c) A public utility that furnishes water for municipal, industrial or domestic
10 purposes or services for the disposal of sewage, or both, which had an annual gross
11 operating revenue of ~~[\$500,000]~~ \$2,000,000 or more for at least 1 year during the
12 immediately preceding 3 years and which had not filed a general rate application
13 with the Commission on or after July 1, 2005, shall file a general rate application
14 on or before June 30, 2008, and at least once every 36 months thereafter unless
15 waived by the Commission pursuant to standards adopted by regulation of the
16 Commission. If a public utility furnishes both water and services for the disposal
17 of sewage, its annual gross operating revenue for each service must be
18 considered separately for determining whether the public utility meets the
19 requirements of this paragraph for either service.

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

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

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

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

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

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

13 6. If a public utility files with the Commission a general rate application, the
14 public utility shall not file with the Commission another general rate application
15 until all pending general rate applications filed by that public utility have been
16 decided by the Commission unless, after application and hearing, the Commission
17 determines that a substantial financial emergency would exist if the public utility is
18 not permitted to file another general rate application sooner. The provisions of this
19 subsection do not prohibit the public utility from filing with the Commission, while
20 a general rate application is pending, an application to recover the increased cost of
21 purchased fuel, purchased power, or natural gas purchased for resale pursuant to
22 subsection 7, a quarterly rate adjustment pursuant to subsection 8 or 9, any
23 information relating to deferred accounting requirements pursuant to NRS 704.185
24 or an annual deferred energy accounting adjustment application pursuant to NRS
25 704.187, if the public utility is otherwise authorized to so file by those provisions.

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

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

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

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

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

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

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

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

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

(a) An electric utility shall file written notice with the Commission on or before August 15, 2007, and every quarter thereafter of the quarterly rate adjustment to be made by the electric utility for the following quarter. The first quarterly rate adjustment by the electric utility will take effect on October 1, 2007, and each subsequent quarterly rate adjustment will take effect every quarter thereafter. 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) Each electric 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 electric utility shall begin providing such written notice to its customers not later than 30 days after the date on which the electric utility files a 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 electric 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) An electric utility shall file an annual deferred energy accounting adjustment application pursuant to NRS 704.187 with the Commission. The annual deferred energy accounting 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 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 population is 400,000 or more than it does from customers located in counties whose population is less than 400,000.

(c) "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 704.661 is hereby amended to read as follows:

704.661 1. ~~△ Except as otherwise provided in NRS 704.095, a~~ public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, and which had an annual gross operating revenue of \$1,000,000 or more for at least 1 year during the immediately preceding 3 years shall, on or before March 1 of every third year, in the manner specified by the Commission, submit a plan to the Commission to provide

1 sufficient water or services for the disposal of sewage to satisfy the demand made
2 on its system by its customers. *If a public utility furnishes both water and services*
3 *for the disposal of sewage, its annual gross operating revenue for each service*
4 *must be considered separately for determining whether the public utility meets*
5 *the requirements of this subsection for either service.*

6 2. The Commission shall adopt regulations to provide for the contents of and
7 the method and schedule for preparing, submitting, reviewing and approving ~~the~~ a
8 plan ~~required~~ submitted pursuant to subsection 1.

9 3. Within 180 days after a public utility has filed a plan pursuant to subsection
10 1, the Commission shall issue an order accepting the plan as filed or specifying any
11 portion of the plan it finds to be inadequate.

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

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

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