

ASSEMBLY BILL NO. 268—ASSEMBLYMEN WOODBURY,
KIRKPATRICK, ANDERSON; ELLISON, GOEDHART,
HAMMOND, HARDY AND STEWART

MARCH 14, 2011

JOINT SPONSOR: SENATOR HARDY

Referred to Committee on Commerce and Labor

SUMMARY—Requires the Public Utilities Commission of Nevada to establish a program that creates incentives for the development of renewable energy systems in this State. (BDR 58-259)

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

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets **[omitted material]** is material to be omitted.

AN ACT relating to energy; requiring the Public Utilities Commission of Nevada to establish a program for the purchase of electricity from certain renewable energy systems; requiring each provider of electric service in this State to participate in the program; requiring the Commission to establish standard offers for the purchase and resale of electricity generated by certain renewable energy systems; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 This bill requires the Public Utilities Commission of Nevada to establish a
2 program for the purchase of electricity from certain renewable energy systems.
3 **Section 12** of this bill requires each provider of electric service in this State to
4 participate in the program. **Section 12** also requires the Commission to establish
5 standard offers for the purchase and resale of electricity from certain renewable
6 energy systems and to determine the cumulative capacity of renewable energy
7 systems that are authorized to participate in the program. Additionally, **section 12**
8 requires the Commission to make the standard offers available until the cumulative
9 system capacity of all renewable energy systems participating in the program meets
10 the cumulative capacity determined by the Commission.



* A B 2 6 8 *

Section 13 of this bill provides that a contract for a standard offer is transferable and requires the transferee to provide written notice to the Commission of any transfer. **Section 13** also requires the Commission to distribute the electricity purchased pursuant to contracts for standard offers and to allocate any associated costs among all providers of electric service on a pro rata basis. **Section 13** further provides that a contract for a standard offer must provide for the interconnection of the renewable energy system with the electricity grid and provides for the allocation of the costs of interconnection. **Section 13** further requires that a contract for a standard offer provide that any tradable renewable energy credits associated with a renewable energy system which accepts a standard offer are owned by the provider of electric service that purchases electricity from the renewable energy system and must be allocated among and transferred to all providers of electric service on a pro rata basis. Additionally, **section 13** provides that a contract for a standard offer entered into by a utility provider is deemed to be a prudent investment, and the utility provider may recover all just and reasonable costs associated with the contract.

Section 14 of this bill requires the Commission to: (1) establish criteria for participation in the program; (2) establish reporting requirements relating to the program; and (3) adopt regulations to carry out the program.

Section 17 of this bill requires the Commission to submit a biennial report to the Governor and the Legislature concerning the program. **Section 18** of this bill requires the Commission to open an investigatory docket to establish the initial prices for the purchase and resale of electricity under the program.

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

Section 1. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. *As used in sections 2 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 11, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. 1. *“Biogas” means methane and other gases produced from the decomposition of organic matter.*

2. *The term includes, without limitation:*

(a) *Landfill gases;*

(b) *Wastewater treatment gases; and*

(c) *Industrial digester gases.*

Sec. 4. *“Biomass” includes, without limitation:*

1. *Biogas; and*

2. *Any product made from agricultural crops or residues, including, without limitation, cooking oils.*

Sec. 5. *“Person” means a natural person, any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or unincorporated organization.*



The term does not include a government, governmental agency or political subdivision of a government.

Sec. 6. *“Provider of electric service” has the meaning ascribed to it in NRS 704.7808.*

Sec. 7. 1. *“Renewable energy” means:*

- (a) Biomass;*
- (b) Geothermal energy;*
- (c) Solar energy;*
- (d) Waterpower; and*
- (e) Wind.*

2. *The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.*

Sec. 8. *“Renewable energy system” means a facility or energy system that:*

- 1. Uses renewable energy to generate electricity; and*
- 2. Has a system capacity that is:*
 - (a) Except as otherwise provided in paragraph (b), 100 kilowatts or more but not more than 2 megawatts; or*
 - (b) For a waterpower system, not more than 100 kilowatts.*

Sec. 9. *“System capacity” means the nameplate capacity of a renewable energy system.*

Sec. 10. *“System owner” means the person who has the right to sell electricity generated by a renewable energy system.*

Sec. 11. *“Utility provider” has the meaning ascribed to it in NRS 704.7819.*

Sec. 12. 1. *The Commission shall establish a program to carry out the provisions of sections 2 to 17, inclusive, of this act. Each provider of electric service in this State shall participate in the program.*

2. *The Commission shall:*

- (a) Establish standard offers for the purchase and resale of electricity from qualifying renewable energy systems;*
- (b) Establish the term of the standard offers; and*
- (c) Determine the cumulative system capacity for all renewable energy systems that participate in the program.*

3. *The Commission shall make the standard offers established pursuant to paragraph (a) of subsection 2 available to renewable energy systems until the cumulative system capacity of all renewable energy systems that have accepted a standard offer equals or exceeds the cumulative system capacity determined by the Commission pursuant to paragraph (c) of subsection 2.*

4. *For each type of renewable energy used by a renewable energy system to generate electricity, the Commission shall determine the price that must be paid pursuant to a standard offer to a system owner for each kilowatt-hour of electricity generated*



1 *by the renewable energy system. In determining the price, the*
2 *Commission shall:*

3 *(a) Determine a generic cost based on an economic analysis*
4 *which includes consideration of:*

5 *(1) The type of renewable energy used by the renewable*
6 *energy system to generate electricity; and*

7 *(2) Different generic costs for renewable energy systems of*
8 *different system capacities;*

9 *(b) Include a rate of return of not less than the highest rate of*
10 *return received by an investor-owned utility provider under the*
11 *rates approved by the Commission as of the date the standard offer*
12 *goes into effect; and*

13 *(c) Include such adjustments as the Commission determines*
14 *necessary to ensure that the price provides sufficient incentive for*
15 *the rapid development and commissioning of renewable energy*
16 *systems in this State and does not exceed the amount needed to*
17 *provide such an incentive.*

18 *5. Except as otherwise provided in subsection 7, after the*
19 *Commission determines the generic cost and rate of return*
20 *pursuant to subsection 4, the price to be paid to a system owner*
21 *under a subsequently executed contract for a standard offer must*
22 *comply with those determinations.*

23 *6. On or before January 31, 2013, and not less frequently*
24 *than every 4 years thereafter, the Commission shall review the*
25 *price determined pursuant to subsection 4 and determine whether*
26 *the price is providing sufficient incentive for the rapid*
27 *development and commissioning of renewable energy systems in*
28 *this State. If the Commission determines that the price is*
29 *inadequate or excessive, the Commission shall, in accordance with*
30 *the requirements of subsection 4, reestablish the price, and that*
31 *price must be applied prospectively beginning on March 1 of the*
32 *year following such a determination.*

33 *7. The Commission shall provide that the amount of any tax*
34 *credits and other incentives provided by the Federal Government,*
35 *the State or any local governmental entity to a renewable energy*
36 *system must be subtracted from the price that would otherwise be*
37 *paid to the system owner pursuant to a contract for a standard*
38 *offer.*

39 *8. A system owner who has executed a contract for a standard*
40 *offer before the Commission makes a determination pursuant to*
41 *subsection 4 or 6 must continue to receive the price provided for in*
42 *the contract.*

43 **Sec. 13. 1. A contract for a standard offer is transferable.**
44 **The transferee shall provide written notice to the Commission of**
45 **any transfer not later than 30 days after the transfer.**



2. The Commission shall distribute the electricity purchased and allocate any associated costs among all providers of electric service based on their pro rata share of total retail sales of electricity in this State during the previous calendar year, and each provider of electric service shall pay its respective allocated costs determined by the Commission.

3. A contract for a standard offer must:

(a) Provide for the interconnection of the renewable energy system with the electricity grid;

(b) Require the system owner to pay the costs of any equipment required to connect the renewable energy system to the electricity grid; and

(c) Require the providers of electric service to pay the costs of any necessary reinforcement of the electricity grid in the manner prescribed by subsection 2.

4. A contract for a standard offer must provide that any tradable renewable energy credits associated with a renewable energy system which accepts a standard offer are owned by the provider of electric service that purchases electricity from the renewable energy system. The Commission shall:

(a) Allocate all such tradable renewable energy credits among all providers of electric service in accordance with their pro rata share of the costs for such electricity as determined pursuant to this section; and

(b) Transfer to each provider of electric service its respective allocated share of such tradable renewable energy credits determined by the Commission.

5. If a provider of electric service is a utility provider, a contract for a standard offer entered into by the utility provider, including the terms and conditions, shall be deemed to be a prudent investment, and the utility provider may recover all just and reasonable costs associated with the contract.

Sec. 14. The Commission shall:

1. Determine the manner and timing of payments to each system owner for energy purchased pursuant to a contract for a standard offer.

2. Determine the manner and timing of payments by a provider of electric service for energy distributed to the provider of electric service pursuant to a contract for a standard offer.

3. Establish the criteria which a renewable energy system must meet to qualify for participation in the program, including, without limitation, safety, technical and engineering standards.

4. Establish reporting requirements for system owners and providers of electric service.



1 5. Adopt such regulations as the Commission determines
2 necessary to carry out the provisions of sections 2 to 17, inclusive,
3 of this act.

4 Sec. 15. The existence of a standard offer established
5 pursuant to paragraph (a) of subsection 2 of section 12 of this act
6 does not preclude a voluntary contract between a system owner
7 and a provider of electric service on terms that may be different
8 from the terms required for a standard offer under the program. A
9 system owner who declines a voluntary contract may accept a
10 standard offer under the program.

11 Sec. 16. The State is not liable to any system owner or
12 provider of electric service with respect to any matter relating to
13 the program, including, without limitation:

- 14 1. Any costs associated with a contract for a standard offer;
15 2. Any damages arising from the breach of a contract for a
16 standard offer;
17 3. Any costs associated with the flow of electricity between a
18 renewable energy system and the electricity grid; or
19 4. Any costs associated with the interconnection of a
20 renewable energy system with the electricity grid.

21 Sec. 17. 1. On or before February 1, 2013, and on or
22 before February 1 of each subsequent odd-numbered year, the
23 Commission shall deliver a written report on the status of the
24 program to the Governor and to the Director of the Legislative
25 Counsel Bureau for transmittal to the next regular session of the
26 Legislature.

27 2. The report required by subsection 1 must include, without
28 limitation:

29 (a) An assessment of the progress made toward achieving the
30 cumulative system capacity determined by the Commission
31 pursuant to paragraph (c) of subsection 2 of section 12 of this act;

32 (b) If the cumulative system capacity determined by the
33 Commission pursuant to paragraph (c) of subsection 2 of section
34 12 of this act has not been achieved, identification of the barriers
35 to achieving that goal and detailed recommendations for
36 overcoming those barriers; and

37 (c) If the cumulative system capacity determined by the
38 Commission pursuant to paragraph (c) of subsection 2 of section
39 12 of this act has been achieved or is likely to be achieved within 1
40 year after the date of the report, a recommendation of whether the
41 program should continue and, if so, any recommended
42 modifications of the program.

43 Sec. 18. 1. As soon as practicable after October 1, 2011, the
44 Public Utilities Commission of Nevada shall open an investigatory
45 docket to determine just and reasonable prices for the purchase and



- 1 resale of electricity pursuant to sections 2 to 17, inclusive, of this
2 act.
- 3 2. The following parties may participate in the investigatory
4 docket:
- 5 (a) A provider of electric service as defined in section 6 of this
6 act;
- 7 (b) A system owner as defined in section 10 of this act;
- 8 (c) A utility provider as defined in section 11 of this act;
- 9 (d) The Regulatory Operations Staff of the Commission; and
- 10 (e) Any other interested party.

