

ASSEMBLY BILL NO. 385—ASSEMBLYMAN OHRENSCHALL

MARCH 21, 2011

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing providers of electric service. (BDR 58-33)

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 energy; requiring the Public Utilities Commission of Nevada to establish the Solar Energy Systems Development Program; 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 solar energy systems; providing that the standard offers established by the Commission must be made available until the total capacity of systems that have accepted a standard offer meets or exceeds the cumulative system capacity goal for the Program established by the Commission; prohibiting certain cooperatives, nonprofit corporations and associations which supply services to members only from charging certain fees to members; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 This bill requires the Public Utilities Commission of Nevada to establish the
2 Solar Energy Systems Development Program. **Section 11** of this bill requires each
3 provider of electric service in this State to participate in the Program. **Section 11**
4 also requires the Commission to establish standard offers for the purchase and
5 resale of electricity from certain solar energy systems with a system capacity of not
6 more than 2.2 megawatts but excludes solar energy systems owned and operated by
7 a provider of electric service from eligibility for the standard offer. Under **section**
8 **11**, the price paid for the purchase of electricity pursuant to a standard offer must
9 not exceed the avoided costs of the provider of electric service that purchases the
10 electricity. **Section 11** further requires the Commission to make the standard offers
11 available until the cumulative system capacity of all solar energy systems that have



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accepted a standard offer meets or exceeds the cumulative system capacity goal established by the Commission pursuant to **section 12** of this bill. **Section 12** requires the Commission to establish the cumulative system capacity goal for the Program based on forecasts provided by providers of electric service relating to future supplies of energy which the providers of electric service expect to use to meet certain requirements of the portfolio standard set forth in NRS 704.7821.

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** provides that a contract for a standard offer must provide for interconnection of the solar energy system with the electricity grid. **Section 13** requires the Commission to distribute the electricity purchased and allocate any associated costs among all providers of electric service on a pro rata basis. **Section 13** also provides that a provider of electric service must receive a credit toward its share of such costs for any solar energy system with a system capacity of not more than 2.2 megawatts which is owned and operated by the provider and which is commissioned on or after January 1, 2012. **Section 13** also requires that a contract for a standard offer provide that any tradable renewable energy credits associated with a solar energy system which accepts a standard offer are owned by the provider of electric service that purchases electricity from the solar energy system. **Section 13** additionally provides that a contract for a standard offer entered into by a utility provider shall be 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 adopt regulations to carry out the Program. **Section 16** of this bill provides that the State is not liable to any system owner or provider of electric service with respect to any matter relating to the Program.

Section 17 of this bill requires the Commission to deliver a biennial report to the Director of the Legislative Counsel Bureau for transmittal to each regular session of the Legislature concerning the status of the Program and progress toward achieving the cumulative system capacity goal established by the Commission.

Section 18 of this bill prohibits certain cooperatives, nonprofit corporations and associations which supply utility services to members only from imposing certain fees on members. **Section 18** authorizes a member to bring an action to recover any fees imposed in violation of this provision.

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 18, inclusive, of this act.

Sec. 2. *As used in sections 2 to 17, inclusive, of this act, the words and terms defined in sections 3 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Commissioned” or “commissioning” means the first time a solar energy system is put into operation following its initial construction or following its modernization if the costs of modernization are equal to 50 percent or more of the costs that would be required to build a new solar energy system, including all buildings and structures technically required for the operation*



1 *of a new solar energy system. The term does not include activities*
2 *necessary to establish operational readiness of the solar energy*
3 *system.*

4 **Sec. 4.** *“Person” means a natural person, any form of*
5 *business or social organization and any other nongovernmental*
6 *legal entity, including, without limitation, a corporation,*
7 *partnership, association, trust or unincorporated organization.*
8 *The term does not include a government, governmental agency or*
9 *political subdivision of a government.*

10 **Sec. 5.** *“Program” means the Solar Energy Systems*
11 *Development Program established by the Commission pursuant to*
12 *section 11 of this act.*

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

15 **Sec. 7.** *“Solar energy system” means a facility or energy*
16 *system that uses solar energy to generate electricity.*

17 **Sec. 8.** *“System capacity” means the nameplate capacity of a*
18 *solar energy system.*

19 **Sec. 9.** *“System owner” means the person who has the right*
20 *to sell electricity generated by a solar energy system.*

21 **Sec. 10.** *“Utility provider” has the meaning ascribed to it in*
22 *NRS 704.7819.*

23 **Sec. 11.** *1. The Commission shall establish the Solar*
24 *Energy Systems Development Program to carry out the provisions*
25 *of sections 2 to 17, inclusive, of this act. Each provider of electric*
26 *service in this State shall participate in the Program.*

27 *2. The Commission shall establish standard offers for the*
28 *purchase and resale of electricity from qualifying solar energy*
29 *systems with a system capacity of not more than 2.2 megawatts.*
30 *Except as otherwise provided in this subsection, the standard*
31 *offers must be made available until the total system capacity of all*
32 *solar energy systems commissioned in this State that have*
33 *accepted a standard offer equals or exceeds the cumulative system*
34 *capacity goal established by the Commission pursuant to section*
35 *12 of this act. A solar energy system owned and operated by a*
36 *provider of electric service is not eligible for the standard offer*
37 *established pursuant to this section, but the system capacity of a*
38 *solar energy system owned and operated by a provider of electric*
39 *service in this State may be included in calculating the total system*
40 *capacity of all solar energy systems that have accepted a standard*
41 *offer if the solar energy system has a system capacity of not more*
42 *than 2.2 megawatts and the solar energy system is commissioned*
43 *on or after January 1, 2012.*

44 *3. The term of a standard offer established pursuant to*
45 *subsection 2 must be 25 years.*



1 4. The Commission shall determine the price that must be
2 paid pursuant to a standard offer to a system owner for each
3 kilowatt-hour generated by the solar energy system. The price
4 determined by the Commission must not exceed the avoided costs
5 of the provider of electric service that purchases electricity
6 generated by a solar energy system pursuant to a standard offer.

7 5. The Commission shall provide that the amount of any tax
8 credits and other incentives provided by the Federal Government,
9 the State or any local governmental entity to a solar energy system
10 must be subtracted from the price that would otherwise be paid to
11 the system owner pursuant to a contract for a standard offer.

12 **Sec. 12.** 1. The Commission shall establish the cumulative
13 system capacity goal for the Program at an amount equal to the
14 difference between the amount of energy which providers of
15 electric service are required to generate or acquire from solar
16 renewable energy systems pursuant to subsection 2 of NRS
17 704.7821 and the amount of the future supply of energy forecasted
18 by providers of electric service pursuant to subsection 2.

19 2. Each provider of electric service shall, in a manner
20 specified by the Commission, submit a forecast of the future
21 supply of energy which the provider of electric service will use to
22 satisfy the requirements of subsection 2 of NRS 704.7821 and
23 which the provider of electric service expects to obtain from:

24 (a) Existing solar renewable energy systems;

25 (b) Solar renewable energy systems currently under
26 construction and subject to a power purchase agreement with the
27 provider of electric service; and

28 (c) Participants in the Solar Energy Systems Incentive
29 Program created by NRS 701B.240.

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

33 2. A contract for a standard offer must provide for the
34 interconnection of the solar energy system with the electricity grid.

35 3. Except as otherwise provided in subsection 4, the
36 Commission shall distribute the electricity purchased and allocate
37 any associated costs among all providers of electric service based
38 on their pro rata share of total retail sales of electricity in this
39 State during the previous calendar year, and each provider of
40 electric service shall pay its respective allocated costs determined
41 by the Commission.

42 4. A provider of electric service must receive a credit toward
43 its share of the costs determined pursuant to subsection 3 for any
44 solar energy system with a system capacity of not more than 2.2
45 megawatts which the provider of electric service owns and



operates in this State and which is commissioned on or after January 1, 2012. The amount of the credit is the amount that the system owner would otherwise be eligible to receive, if the owner were not a provider of electric service, pursuant to the standard offer in effect at the time the solar energy system is commissioned. The amount of any such credit must be reallocated among all other providers of electric service on a basis such that all providers of electric service pay for a proportionate amount of system capacity up to the cumulative system capacity goal for the Program established by the Commission pursuant to section 12 of this act.

5. A contract for a standard offer must provide that any tradable renewable energy credits associated with a solar energy system which accepts a standard offer are owned by the provider of electric service that purchases electricity from the solar energy system. The Commission shall transfer any tradable renewable energy credits attributable to electricity purchased pursuant to a contract for a standard offer to all providers of electric service in accordance with their pro rata share of the costs for such electricity as determined pursuant to this section.

6. 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 adopt such regulations as the Commission determines necessary to carry out the Program, including, without limitation, regulations establishing reporting requirements for system owners and providers of electric service.

Sec. 15. The existence of a standard offer established pursuant to subsection 2 of section 11 of this act does not preclude a voluntary contract between a system owner and a provider of electric service on terms that may be different from the terms required for a standard offer under the Program. A system owner who declines a voluntary contract may accept a standard offer under the Program.

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

1. Any costs associated with a contract for a standard offer;
2. Any damages arising from the breach of a contract for a standard offer;
3. Any costs associated with the flow of electricity between a solar energy system and the electricity grid; or



1 **4. Any costs associated with the interconnection of a solar**
2 **energy system with the electricity grid.**

3 **Sec. 17. 1. On or before February 1, 2013, and on or**
4 **before February 1 of each subsequent odd-numbered year, the**
5 **Commission shall deliver a written report on the status of the**
6 **Program to the Director of the Legislative Counsel Bureau for**
7 **transmittal to the next regular session of the Legislature.**

8 **2. The report required by subsection 1 must include, without**
9 **limitation:**

10 **(a) An assessment of the progress made toward attaining the**
11 **cumulative system capacity goal established by the Commission**
12 **pursuant to section 12 of this act;**

13 **(b) If the cumulative system capacity goal established by the**
14 **Commission pursuant to section 12 of this act has not been met,**
15 **identification of the barriers to attaining that goal and detailed**
16 **recommendations for overcoming those barriers; and**

17 **(c) If the cumulative system capacity goal established by the**
18 **Commission pursuant to section 12 of this act has been met or is**
19 **likely to be met within 1 year after the date of the report, a**
20 **recommendation of whether the Program should continue and, if**
21 **so, any recommended modifications to the Program.**

22 **Sec. 18. 1. A cooperative association or nonprofit**
23 **corporation or association or other supplier of services described**
24 **in this chapter supplying those services for the use of its own**
25 **members only shall not:**

26 **(a) Charge any fee to or collect any fee from a member who**
27 **does not receive such services.**

28 **(b) Charge or collect any fee for connecting or reconnecting a**
29 **member to facilities for the provision of such services which**
30 **exceeds the actual cost of connecting or reconnecting the member**
31 **to such facilities which is incurred by the cooperative association**
32 **or nonprofit corporation or association or other supplier of**
33 **services.**

34 **2. If any fee described in subsection 1 is imposed on any**
35 **member of a cooperative association or nonprofit corporation or**
36 **association or other supplier of services described in this chapter**
37 **supplying those services for the use of its own members, the**
38 **member may bring an action in any court of competent**
39 **jurisdiction to recover the amount of the fee imposed.**

40 **Sec. 19. NRS 704.675 is hereby amended to read as follows:**

41 **704.675 Every cooperative association or nonprofit corporation**
42 **or association and every other supplier of services described in this**
43 **chapter supplying those services for the use of its own members**
44 **only is hereby declared to be affected with a public interest, to be a**
45 **public utility, and to be subject to the provisions of section 18 of**



1 *this act and to the* jurisdiction, control and regulation of the
2 Commission for the purposes of NRS 703.191, 704.330, 704.350
3 to 704.410, inclusive, but not to any other jurisdiction, control and
4 regulation of the Commission or to the provisions of any section not
5 specifically mentioned in this section.

6 **Sec. 20.** This act becomes effective:

7 1. Upon passage and approval for the purposes of adopting
8 regulations and performing any other preparatory administrative
9 tasks necessary to carry out the provisions of this act; and

10 2. On January 1, 2012, for all other purposes.

