

Assembly Bill No. 173—Assemblymen Healey, Kirkpatrick; Elliot
Anderson, Bustamante Adams, Carrillo, Diaz, Frierson,
Livermore, Martin, Neal, Oscarson, Pierce and Spiegel

CHAPTER.....

AN ACT relating to electric utilities; prohibiting certain electric utilities from requiring that residential customers pay certain electric service rates based on the time of use of electricity; prohibiting the Public Utilities Commission of Nevada, except under certain circumstances, from approving any change of schedule or imposition of an electric service rate by an electric utility which requires residential customers to pay rates based on the time of use of the electricity; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a public utility from making changes to any schedule of rates or imposing any rate on its customers without the approval of the Public Utilities Commission of Nevada. (NRS 704.061-704.140) **Section 4** of this bill prohibits an electric utility which, in the most recently completed calendar year or in any other calendar year within the 7 calendar years immediately preceding the most recently completed calendar year, had a gross operating revenue of \$250,000,000 or more in this State, from making changes in any schedule or imposing any rate which requires a residential customer to purchase electric service at a rate which is based on the time during which the electricity is used. **Section 4** also prohibits the Commission from approving any such changes in any schedule or authorizing the imposition of any such rate by an electric utility, except that the Commission may approve such a change in a schedule or authorize the imposition of such a rate if the approval or authorization is conditioned upon an election by a residential customer to purchase electric service at such a rate.

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

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

Section 1. NRS 703.130 is hereby amended to read as follows:
703.130 1. The Commission shall, within the limits of legislative appropriations or authorizations, employ and fix the salaries of or contract for the services of such professional, technical and operational personnel and consultants as the execution of its duties and the operation of the Commission may require.

2. The Commission shall appoint an Executive Director, who must be:

(a) Knowledgeable and experienced in public administration and fiscal management;



(b) Knowledgeable in the areas of utility regulation by the Commission; and

(c) Independent of and have no pecuniary interest in any entity regulated by the Commission.

3. The Executive Director shall:

(a) Serve as Chief Financial Officer for the Commission;

(b) Direct the daily operation of the Commission, including, without limitation:

(1) Budget preparation;

(2) Administration;

(3) Human resources;

(4) Purchases and acquisitions made by the Commission; and

(5) Contracts and leases entered into by the Commission;

(c) Develop and implement policies and procedures to ensure the efficient operation of the Commission;

(d) Oversee:

(1) The review of applications for certificates, permits and modifications of tariffs;

(2) The maintenance of a hearing calendar of all matters pending before the Commission; and

(3) Compliance with and enforcement of statutes and regulations pertaining to utilities which are regulated by the Commission; and

(e) Authenticate documents and serve as custodian of all agency records.

4. The Executive Director is in the unclassified service of the State.

5. The Executive Director, with the approval of the Commission, shall designate a Secretary who shall perform such administrative and other duties as are prescribed by the Executive Director. The Executive Director, with the approval of the Commission, shall also designate an Assistant Secretary.

6. The Executive Director may employ such other clerks, experts or engineers as may be necessary.

7. Except as otherwise provided in subsection 8, the Commission:

(a) May appoint one or more hearing officers for a period specified by the Commission to conduct proceedings or hearings that may be conducted by the Commission pursuant to NRS 702.160 and 702.170 and chapters 704, 704A, 704B, 705, 708 and 711 of NRS.

(b) Shall prescribe by regulation the procedure for appealing a decision of a hearing officer to the Commission.



8. The Commission shall not appoint a hearing officer to conduct proceedings or hearings:

(a) In any matter pending before the Commission pursuant to NRS 704.7561 to 704.7595, inclusive; or

(b) In any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, *and section 4 of this act* in which an electric utility has filed a general rate application or an annual deferred energy accounting adjustment application.

9. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 2. NRS 703.320 is hereby amended to read as follows:

703.320 Except as otherwise provided in subsections 9 and 11 of NRS 704.110:

1. In any matter pending before the Commission, if a hearing is required by a specific statute or is otherwise required by the Commission, the Commission shall give notice of the pendency of the matter to all persons entitled to notice of the hearing. The Commission shall by regulation specify:

(a) The manner of giving notice in each type of proceeding; and

(b) The persons entitled to notice in each type of proceeding.

2. The Commission shall not dispense with a hearing:

(a) In any matter pending before the Commission pursuant to NRS 704.7561 to 704.7595, inclusive; or

(b) Except as otherwise provided in paragraph (f) of subsection 1 of NRS 704.100, in any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, *and section 4 of this act* in which an electric utility has filed a general rate application or an annual deferred energy accounting adjustment application pursuant to NRS 704.187.

3. In any other matter pending before the Commission, the Commission may dispense with a hearing and act upon the matter pending unless, within 10 days after the date of the notice of pendency, a person entitled to notice of the hearing files with the Commission a request that the hearing be held. If such a request for a hearing is filed, the Commission shall give at least 10 days' notice of the hearing.

4. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 3. NRS 703.374 is hereby amended to read as follows:

703.374 1. A court of competent jurisdiction, after hearing, may issue an injunction suspending or staying any final order of the Commission if:

(a) The applicant has filed a motion for a preliminary injunction;



(b) The applicant has served the motion on the Commission and other interested parties within 20 days after the rendition of the order on which the complaint is based;

(c) The court finds there is a reasonable likelihood that the applicant will prevail on the merits of the matter and will suffer irreparable injury if injunctive relief is not granted; and

(d) The applicant files a bond or other undertaking to secure the adverse parties in such manner as the court finds sufficient.

2. The decision of the Commission on each matter considered shall be deemed reasonable and just until set aside by the court. In all actions for an injunction or for any other relief, the burden of proof is upon the party attacking or resisting the order of the Commission to show by clear and satisfactory evidence that the order is unlawful or unreasonable.

3. If an injunction is granted by the court and the order complained of is one which:

(a) Disapproves a public utility's proposed changes in a schedule of rates, or any part thereof, pursuant to NRS 704.061 to 704.110, inclusive ~~to~~, **and section 4 of this act**; or

(b) Otherwise prevents the proposed changes in the schedule, or any part thereof, from taking effect,

→ the public utility complaining may place into effect the proposed changes in the schedule, or any part thereof, pending final determination by the court having jurisdiction, by filing a bond with the court in such an amount as the court may fix, conditioned upon the refund to persons entitled to the excess amount if the proposed changes in the schedule, or any part thereof, are finally determined by the court to be excessive.

Sec. 4. Chapter 704 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An electric utility shall not make changes in any schedule or impose any rate, and the Commission shall not approve any changes in any schedule or authorize the imposition of any rate by an electric utility, which requires a residential customer to purchase electric service at a rate which is based on the time of day, day of the week or time of year during which the electricity is used or which otherwise varies based upon the time during which the electricity is used, except that the Commission may approve such a change in a schedule or authorize the imposition of such a rate if the approval or authorization is conditioned upon an election by a residential customer to purchase electric service at such a rate.



2. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 5. NRS 704.061 is hereby amended to read as follows:

704.061 As used in NRS 704.061 to 704.110, inclusive, **and section 4 of this act**, unless the context otherwise requires, the words and terms defined in NRS 704.062, 704.065 and 704.066 have the meanings ascribed to them in those sections.

Sec. 6. NRS 704.068 is hereby amended to read as follows:

704.068 For the purposes of NRS 704.061 to 704.110, inclusive, **and section 4 of this act**, a public utility shall be deemed to make changes in a schedule if the public utility implements a new schedule or amends an existing schedule.

Sec. 7. NRS 704.069 is hereby amended to read as follows:

704.069 1. Except as otherwise provided in subsections 9 and 11 of NRS 704.110, the Commission shall conduct a consumer session to solicit comments from the public in any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, **and section 4 of this act** in which:

(a) A public utility has filed a general rate application, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale, an annual deferred energy accounting adjustment application pursuant to NRS 704.187 or an annual rate adjustment application; and

(b) The changes proposed in the application will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that will exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less.

2. In addition to the case-specific consumer sessions required by subsection 1, the Commission shall, during each calendar year, conduct at least one general consumer session in the county with the largest population in this State and at least one general consumer session in the county with the second largest population in this State. At each general consumer session, the Commission shall solicit comments from the public on issues concerning public utilities. Not later than 60 days after each general consumer session, the Commission shall submit the record from the general consumer session to the Legislative Commission.

Sec. 8. NRS 228.360 is hereby amended to read as follows:

228.360 1. The Consumer's Advocate:

(a) Shall intervene in and represent the public interest in:

(1) All proceedings conducted pursuant to NRS 704.7561 to 704.7595, inclusive; and



(2) All proceedings conducted pursuant to NRS 704.061 to 704.110, inclusive, *and section 4 of this act* in which an electric utility has filed a general rate application or an annual deferred energy accounting adjustment application.

(b) May, with respect to all public utilities except railroads and cooperative utilities, and except as otherwise provided in NRS 228.380:

(1) Conduct or contract for studies, surveys, research or expert testimony relating to matters affecting the public interest or the interests of utility customers.

(2) Examine any books, accounts, minutes, records or other papers or property of any public utility subject to the regulatory authority of the Public Utilities Commission of Nevada in the same manner and to the same extent as authorized by law for members of the Public Utilities Commission of Nevada and its staff.

(3) Except as otherwise provided in paragraph (a), petition for, request, initiate, appear or intervene in any proceeding concerning rates, charges, tariffs, modifications of service or any related matter before the Public Utilities Commission of Nevada or any court, regulatory body, board, commission or agency having jurisdiction over any matter which the Consumer's Advocate may bring before or has brought before the Public Utilities Commission of Nevada or in which the public interest or the interests of any particular class of utility customers are involved. The Consumer's Advocate may represent the public interest or the interests of any particular class of utility customers in any such proceeding, and the Consumer's Advocate is a real party in interest in the proceeding.

2. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 9. This act becomes effective upon passage and approval.

