

ASSEMBLY BILL NO. 173—ASSEMBLYMEN HEALEY, KIRKPATRICK;
ELLIOT ANDERSON, BUSTAMANTE ADAMS, CARRILLO,
DIAZ, FRIERSON, LIVERMORE, MARTIN, NEAL, OSCARSON,
PIERCE AND SPIEGEL

FEBRUARY 26, 2013

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing rates which may be
charged by certain electric utilities. (BDR 58-966)

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

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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 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:

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



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14 conditioned upon an election by a residential customer to purchase electric service
15 at such a rate.

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

- 1 **Section 1.** NRS 703.130 is hereby amended to read as follows:
2 703.130 1. The Commission shall, within the limits of
3 legislative appropriations or authorizations, employ and fix the
4 salaries of or contract for the services of such professional, technical
5 and operational personnel and consultants as the execution of its
6 duties and the operation of the Commission may require.
7 2. The Commission shall appoint an Executive Director, who
8 must be:
9 (a) Knowledgeable and experienced in public administration and
10 fiscal management;
11 (b) Knowledgeable in the areas of utility regulation by the
12 Commission; and
13 (c) Independent of and have no pecuniary interest in any entity
14 regulated by the Commission.
15 3. The Executive Director shall:
16 (a) Serve as Chief Financial Officer for the Commission;
17 (b) Direct the daily operation of the Commission, including,
18 without limitation:
19 (1) Budget preparation;
20 (2) Administration;
21 (3) Human resources;
22 (4) Purchases and acquisitions made by the Commission; and
23 (5) Contracts and leases entered into by the Commission;
24 (c) Develop and implement policies and procedures to ensure
25 the efficient operation of the Commission;
26 (d) Oversee:
27 (1) The review of applications for certificates, permits and
28 modifications of tariffs;
29 (2) The maintenance of a hearing calendar of all matters
30 pending before the Commission; and
31 (3) Compliance with and enforcement of statutes and
32 regulations pertaining to utilities which are regulated by the
33 Commission; and
34 (e) Authenticate documents and serve as custodian of all agency
35 records.
36 4. The Executive Director is in the unclassified service of the
37 State.
38 5. The Executive Director, with the approval of the
39 Commission, shall designate a Secretary who shall perform such



1 administrative and other duties as are prescribed by the Executive
2 Director. The Executive Director, with the approval of the
3 Commission, shall also designate an Assistant Secretary.

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

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

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

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

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

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

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

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

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

26 703.320 Except as otherwise provided in subsections 9 and 11
27 of NRS 704.110:

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

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

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

35 2. The Commission shall not dispense with a hearing:

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

38 (b) Except as otherwise provided in paragraph (f) of subsection
39 1 of NRS 704.100, in any matter pending before the Commission
40 pursuant to NRS 704.061 to 704.110, inclusive, *and section 4 of*
41 *this act* in which an electric utility has filed a general rate
42 application or an annual deferred energy accounting adjustment
43 application pursuant to NRS 704.187.

44 3. In any other matter pending before the Commission, the
45 Commission may dispense with a hearing and act upon the matter



1 pending unless, within 10 days after the date of the notice of
2 pendency, a person entitled to notice of the hearing files with the
3 Commission a request that the hearing be held. If such a request for
4 a hearing is filed, the Commission shall give at least 10 days' notice
5 of the hearing.

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

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

9 703.374 1. A court of competent jurisdiction, after hearing,
10 may issue an injunction suspending or staying any final order of the
11 Commission if:

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

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

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

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

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

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

29 (a) Disapproves a public utility's proposed changes in a
30 schedule of rates, or any part thereof, pursuant to NRS 704.061 to
31 704.110, inclusive ~~†~~, and *section 4 of this act*; or

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

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

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

43 *1. An electric utility shall not make changes in any schedule*
44 *or impose any rate, and the Commission shall not approve any*
45 *changes in any schedule or authorize the imposition of any rate by*



1 *an electric utility, which requires a residential customer to*
2 *purchase electric service at a rate which is based on the time of*
3 *day, day of the week or time of year during which the electricity is*
4 *used or which otherwise varies based upon the time during which*
5 *the electricity is used, except that the Commission may approve*
6 *such a change in a schedule or authorize the imposition of such a*
7 *rate if the approval or authorization is conditioned upon an*
8 *election by a residential customer to purchase electric service at*
9 *such a rate.*

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

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

13 704.061 As used in NRS 704.061 to 704.110, inclusive, *and*
14 *section 4 of this act*, unless the context otherwise requires, the
15 words and terms defined in NRS 704.062, 704.065 and 704.066
16 have the meanings ascribed to them in those sections.

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

18 704.068 For the purposes of NRS 704.061 to 704.110,
19 inclusive, *and section 4 of this act*, a public utility shall be deemed
20 to make changes in a schedule if the public utility implements a new
21 schedule or amends an existing schedule.

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

23 704.069 1. Except as otherwise provided in subsections 9
24 and 11 of NRS 704.110, the Commission shall conduct a consumer
25 session to solicit comments from the public in any matter pending
26 before the Commission pursuant to NRS 704.061 to 704.110,
27 inclusive, *and section 4 of this act* in which:

28 (a) A public utility has filed a general rate application, an
29 application to recover the increased cost of purchased fuel,
30 purchased power, or natural gas purchased for resale, an annual
31 deferred energy accounting adjustment application pursuant to NRS
32 704.187 or an annual rate adjustment application; and

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

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



1 the Commission shall submit the record from the general consumer
2 session to the Legislative Commission.

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

4 228.360 1. The Consumer's Advocate:

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

6 (1) All proceedings conducted pursuant to NRS 704.7561 to
7 704.7595, inclusive; and

8 (2) All proceedings conducted pursuant to NRS 704.061 to
9 704.110, inclusive, *and section 4 of this act* in which an electric
10 utility has filed a general rate application or an annual deferred
11 energy accounting adjustment application.

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

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

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

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

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

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

