

SENATE BILL NO. 123—SENATOR ATKINSON

FEBRUARY 18, 2013

JOINT SPONSORS: ASSEMBLYMEN BOBZIEN AND KIRKPATRICK

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to energy.
(BDR 58-106)

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 certain electric utilities in this State to file with the Public Utilities Commission of Nevada an emissions reduction and capacity replacement plan; prescribing the minimum requirements of such a plan; providing for the recovery of certain costs relating to an emissions reduction and capacity replacement plan; prescribing the powers and duties of the Commission and the Division of Environmental Protection of the State Department of Conservation and Natural Resources with respect to such a plan; providing for the mitigation of certain amounts in excess of a utility's total revenue requirement; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 7** of this bill requires an electric utility which primarily serves densely
2 populated counties (currently only Clark County) and which, in the most recently
3 completed calendar year or in any other calendar year within the 7 calendar years
4 immediately preceding the most recently completed calendar year, had a gross
5 operating revenue of \$250,000,000 or more in this State to submit to the Public
6 Utilities Commission of Nevada a comprehensive plan for the reduction of
7 emissions from coal-fired electric generating plants and the replacement of the
8 capacity of such plants with increased capacity from renewable energy facilities
9 and other electric generating plants. **Section 7** prescribes the minimum
10 requirements of such an emissions reduction and capacity replacement plan, which
11 include: (1) the retirement or elimination of not less than 800 megawatts of



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12 coal-fired electric generating capacity on or before December 31, 2019; (2) the
13 construction or acquisition of, or contracting for, 350 megawatts of electric
14 generating capacity from renewable energy facilities; and (3) the construction or
15 acquisition of 550 megawatts of electric generating capacity from other electric
16 generating plants. **Section 9** of this bill provides for the recovery of certain costs
17 incurred by an electric utility in carrying out an emissions reduction and capacity
18 replacement plan.

19 **Sections 10, 18 and 19** of this bill provide that the Division of Environmental
20 Protection of the State Department of Conservation and Natural Resources has
21 exclusive jurisdiction to supervise and regulate the remediation of any site
22 previously used for the production of electricity from a coal-fired electric
23 generating plant, including authority to regulate and supervise the remediation of
24 surface water and groundwater and solid-waste disposal operations located at such
25 a site. Additionally, **sections 10 and 20** of this bill provide that the Division has
26 exclusive authority to regulate emissions from any renewable energy facility or
27 electric generating plant constructed on a site previously used for the production of
28 electricity from a coal-fired electric generating plant.

29 **Section 12** of this bill establishes provisions concerning the filing of an
30 amendment to a utility's emissions reduction and capacity replacement plan for
31 purposes of the Commission's approval and acceptance of certain contracts
32 between the utility and a renewable energy facility. **Section 12.5** of this bill
33 provides that if the Commission deems inadequate any portion of a utility's
34 emissions reduction and capacity replacement plan or an amendment to the plan,
35 the Commission may recommend a modification to the plan or amendment, and the
36 utility may accept the modification or withdraw the proposed plan or amendment.

37 Existing law establishes provisions governing public hearings on the adequacy
38 of a utility's plan to increase its supply of electricity or decrease demands made on
39 its system. (NRS 704.746) **Section 16** of this bill authorizes the Commission to
40 give preference to the measures and sources of supply that provide the greatest
41 opportunity for the creation of new jobs in this State. **Section 16** also requires the
42 Commission, after a hearing, to review and accept or modify an emissions
43 reduction and capacity replacement plan. **Section 16** requires the Commission, in
44 reviewing such a plan, to consider: (1) the cost to the customers of the electric
45 utility to implement the plan; (2) whether the plan provides the greatest economic
46 benefit to this State; (3) whether the plan provides the greatest opportunities for the
47 creation of new jobs in this State; and (4) whether the plan represents the best value
48 to the customers of the electric utility.

49 Existing law requires the Commission to issue an order to accept as filed a
50 utility's plan to increase its supply of electricity or to decrease demands on its
51 system or to specify any portions of such a plan as inadequate. (NRS 704.751)
52 **Section 17** of this bill revises the time in which a utility may file an amendment to
53 its plan and also requires that any order issued by the Commission accepting an
54 element of an emissions reduction and capacity replacement plan must authorize a
55 utility to construct or to acquire and own electric generating plants necessary to
56 implement the utility's emissions reduction and capacity replacement plan.

57 **Section 22** of this bill provides that this bill becomes effective upon passage
58 and approval.



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 13, inclusive, of this act.

Sec. 2. *As used in sections 2 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 2.5 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 2.5. *“Coal-fired electric generating plant” means an electric generating plant which burns coal to produce electricity and which is owned, in whole or in part, by an electric utility.*

Sec. 3. (Deleted by amendment.)

Sec. 4. *“Electric utility” means an electric utility that primarily serves densely populated counties, as that term is defined in paragraph (c) of subsection 17 of NRS 704.110.*

Sec. 5. *“Emissions reduction and capacity replacement plan” means a plan filed by an electric utility with the Commission pursuant to section 7 of this act.*

Sec. 6. *“Renewable energy facility” means an electric generating facility that uses renewable energy to produce electricity. As used in this section, “renewable energy” has the meaning ascribed to it in NRS 704.7811.*

Sec. 7. 1. *An electric utility shall file with the Commission, as part of the plan required to be submitted pursuant to NRS 704.741, a comprehensive plan for the reduction of emissions from coal-fired electric generating plants and the replacement of the capacity of such plants with increased capacity from renewable energy facilities and other electric generating plants.*

2. *The emissions reduction and capacity replacement plan must provide:*

(a) For the retirement or elimination of:

(1) Not less than 300 megawatts of coal-fired electric generating capacity on or before December 31, 2014;

(2) In addition to the generating capacity retired or eliminated pursuant to subparagraph (1), not less than 250 megawatts of coal-fired electric generating capacity on or before December 31, 2017; and

(3) In addition to the generating capacity retired or eliminated pursuant to subparagraphs (1) and (2), not less than 250 megawatts of coal-fired electric generating capacity on or before December 31, 2019.

↪ For the purposes of this paragraph, the generating capacity of a coal-fired electric generating plant must be determined by



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1 *reference to the most recent resource plan filed by the electric*
2 *utility pursuant to NRS 704.741 and accepted by the Commission*
3 *pursuant to NRS 704.751.*

4 *(b) For the construction or acquisition of, or contracting for,*
5 *350 megawatts of electric generating capacity from renewable*
6 *energy facilities. The electric utility shall:*

7 *(1) Issue a request for proposals for 100 megawatts of*
8 *electric generating capacity from new renewable energy facilities*
9 *on or before December 31, 2014;*

10 *(2) In addition to the request for proposals issued pursuant*
11 *to subparagraph (1), issue a request for proposals for 100*
12 *megawatts of electric generating capacity from new renewable*
13 *energy facilities on or before December 31, 2015;*

14 *(3) In addition to the requests for proposals issued pursuant*
15 *to subparagraphs (1) and (2), issue a request for proposals for 100*
16 *megawatts of electric generating capacity from new renewable*
17 *energy facilities on or before December 31, 2016;*

18 *(4) Review each proposal received pursuant to*
19 *subparagraphs (1), (2) and (3) and identify those renewable*
20 *energy facilities that will provide:*

21 *(I) The greatest economic benefit to this State;*

22 *(II) The greatest opportunity for the creation of new*
23 *jobs in this State; and*

24 *(III) The best value to customers of the electric utility;*

25 *(5) Negotiate, in good faith, to construct, acquire or*
26 *contract with the renewable energy facilities identified pursuant to*
27 *subparagraph (4), and file with the Commission an amendment to*
28 *the plan each time the utility wishes to construct, acquire or*
29 *contract with such facilities; and*

30 *(6) Begin, on or before December 31, 2017, the*
31 *construction or acquisition of a portion of new renewable energy*
32 *facilities with a generating capacity of 50 megawatts to be owned*
33 *and operated by the electric utility, and complete construction of*
34 *such facilities on or before December 31, 2021.*

35 *↪ For the purposes of this paragraph, the generating capacity of a*
36 *renewable energy facility must be determined by the nameplate*
37 *capacity of the facility.*

38 *(c) For the electric utility to construct or acquire and own*
39 *electric generating plants with an electric generating capacity of*
40 *550 megawatts, which must be constructed or acquired to replace,*
41 *in an orderly and structured manner, the coal-fired electric*
42 *generating capacity retired or eliminated pursuant to*
43 *paragraph (a).*

44 *(d) If the plan includes the construction or acquisition of one*
45 *or more natural gas-fired electric generating plants, a strategy for*



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1 *the commercially reasonable physical procurement of fixed-price*
2 *natural gas by the electric utility.*

3 *(e) A plan for tracking and specifying the accounting*
4 *treatment for all costs associated with the decommissioning of the*
5 *coal-fired electric generating plants identified for retirement or*
6 *elimination.*

7 *↪ For the purposes of this subsection, an electric utility shall be*
8 *deemed to own, acquire, retire or eliminate only its pro rata*
9 *portion of any electric generating facility that is not wholly owned*
10 *by the electric utility and, except as otherwise provided in*
11 *paragraph (b), "capacity" means an amount of firm electric*
12 *generating capacity used by the electric utility for the purpose of*
13 *preparing a plan filed with the Commission pursuant to NRS*
14 *704.736 to 704.754, inclusive.*

15 *3. In addition to the requirements for an emissions reduction*
16 *and capacity replacement plan set forth in subsection 2, the plan*
17 *may include additional utility facilities, electric generating plants,*
18 *elements or programs necessary to carry out the plan, including,*
19 *without limitation:*

20 *(a) The construction of natural gas pipelines necessary for the*
21 *operation of any new natural gas-fired electric generating plants*
22 *included in the plan;*

23 *(b) Entering into contracts for the transportation of natural*
24 *gas necessary for the operation of any natural gas-fired electric*
25 *generating plants included in the plan; and*

26 *(c) The construction of transmission lines and related*
27 *infrastructure necessary for the operation or interconnection of*
28 *any electric generating plants included in the plan.*

29 **Sec. 8.** (Deleted by amendment.)

30 **Sec. 9.** *An electric utility shall, upon the completion of*
31 *construction or acquisition of any electric generating plant or*
32 *other facility constructed or acquired pursuant to an emissions*
33 *reduction and capacity replacement plan accepted by the*
34 *Commission pursuant to NRS 704.751, begin recording in a*
35 *regulatory asset, with carrying charges, an amount that reflects a*
36 *return on the electric utility's investment in the facility,*
37 *depreciation of the utility's investment in the facility and the cost*
38 *of operating and maintaining the facility.*

39 **Sec. 10. 1.** *To ensure the remediation and, when possible,*
40 *the reuse of any site used for the production of electricity from a*
41 *coal-fired electric generating plant in this State, the Division of*
42 *Environmental Protection of the State Department of*
43 *Conservation and Natural Resources has exclusive jurisdiction to*
44 *supervise and regulate the remediation of such sites, including,*
45 *without limitation, exclusive authority to regulate and supervise*



1 *the remediation of surface water and groundwater and solid-waste*
2 *disposal operations located at such a site.*

3 *2. The Division of Environmental Protection has exclusive*
4 *authority to regulate emissions from any electric generating plant*
5 *constructed on a site previously used for the production of*
6 *electricity from a coal-fired electric generating plant.*

7 **Sec. 11.** *If, in any general rate proceeding filed by an electric*
8 *utility before June 1, 2018, the utility includes a request for*
9 *recovery of any amount related to the implementation of an*
10 *emissions reduction and capacity replacement plan and recovery*
11 *of such an amount would result in an increase in the electric*
12 *utility's total revenue requirement of more than 5 percent, the*
13 *utility must propose a method or mechanism by which such excess*
14 *may be mitigated. The Commission may accept or reject such a*
15 *rate method or mechanism. If the mitigation method or*
16 *mechanism is approved by the Commission, the utility shall record*
17 *any deferred revenue in a regulatory asset account and may*
18 *calculate carrying charges on the unamortized balance of the*
19 *regulatory asset.*

20 **Sec. 12.** *1. An electric utility shall file with the Commission*
21 *an amendment to the utility's emissions reduction and capacity*
22 *replacement plan each time the utility requests approval and*
23 *acceptance by the Commission of any contract with a new*
24 *renewable energy facility as the result of a request for proposals*
25 *pursuant to the current emissions reduction and capacity*
26 *replacement plan. The Commission may approve and accept the*
27 *renewable energy facility if the Commission determines that:*

28 *(a) The facility is a renewable energy system as defined in*
29 *NRS 704.7815; and*

30 *(b) The terms and conditions of the contract are just and*
31 *reasonable and satisfy the capacity requirements set forth in*
32 *subsection 2 of section 7 of this act.*

33 *2. In considering a contract pursuant to subsection 1, the*
34 *Commission shall, in addition to considering the cost to customers*
35 *of the electric utility, give consideration to those contracts or*
36 *renewable energy facilities that will provide:*

37 *(a) The greatest economic benefit to this State;*

38 *(b) The greatest opportunity for the creation of new jobs in this*
39 *State; and*

40 *(c) The best value to customers of the electric utility.*

41 **Sec. 12.5.** *If the Commission deems inadequate any portion*
42 *of an emissions reduction and capacity replacement plan or any*
43 *amendment to the plan, the Commission may recommend to the*
44 *electric utility a modification of that portion of the plan or*
45 *amendment, and the electric utility may:*



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1 *1. Accept the modification; or*

2 *2. Withdraw the proposed plan or amendment.*

3 **Sec. 13.** *The Commission shall adopt any regulations*
4 *necessary to carry out the provisions of sections 2 to 13, inclusive,*
5 *of this act.*

6 **Sec. 14.** (Deleted by amendment.)

7 **Sec. 15.** NRS 704.110 is hereby amended to read as follows:

8 704.110 Except as otherwise provided in NRS 704.075 and
9 704.68861 to 704.68887, inclusive, or as may otherwise be provided
10 by the Commission pursuant to NRS 704.095 or 704.097:

11 1. If a public utility files with the Commission an application to
12 make changes in any schedule, including, without limitation,
13 changes that will result in a discontinuance, modification or
14 restriction of service, the Commission shall investigate the propriety
15 of the proposed changes to determine whether to approve or
16 disapprove the proposed changes. If an electric utility files such an
17 application and the application is a general rate application or an
18 annual deferred energy accounting adjustment application, the
19 Consumer's Advocate shall be deemed a party of record.

20 2. Except as otherwise provided in subsection 3, if a public
21 utility files with the Commission an application to make changes in
22 any schedule, the Commission shall, not later than 210 days after the
23 date on which the application is filed, issue a written order
24 approving or disapproving, in whole or in part, the proposed
25 changes.

26 3. If a public utility files with the Commission a general rate
27 application, the public utility shall submit with its application a
28 statement showing the recorded results of revenues, expenses,
29 investments and costs of capital for its most recent 12 months for
30 which data were available when the application was prepared.
31 Except as otherwise provided in subsection 4, in determining
32 whether to approve or disapprove any increased rates, the
33 Commission shall consider evidence in support of the increased
34 rates based upon actual recorded results of operations for the same
35 12 months, adjusted for increased revenues, any increased
36 investment in facilities, increased expenses for depreciation, certain
37 other operating expenses as approved by the Commission and
38 changes in the costs of securities which are known and are
39 measurable with reasonable accuracy at the time of filing and which
40 will become effective within 6 months after the last month of those
41 12 months, but the public utility shall not place into effect any
42 increased rates until the changes have been experienced and
43 certified by the public utility to the Commission and the
44 Commission has approved the increased rates. The Commission
45 shall also consider evidence supporting expenses for depreciation,



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1 calculated on an annual basis, applicable to major components of the
2 public utility's plant placed into service during the recorded test
3 period or the period for certification as set forth in the application.
4 Adjustments to revenues, operating expenses and costs of securities
5 must be calculated on an annual basis. Within 90 days after the date
6 on which the certification required by this subsection is filed with
7 the Commission, or within the period set forth in subsection 2,
8 whichever time is longer, the Commission shall make such order in
9 reference to the increased rates as is required by this chapter. The
10 following public utilities shall each file a general rate application
11 pursuant to this subsection based on the following schedule:

12 (a) An electric utility that primarily serves less densely
13 populated counties shall file a general rate application not later than
14 5 p.m. on or before the first Monday in June 2010, and at least once
15 every 36 months thereafter.

16 (b) An electric utility that primarily serves densely populated
17 counties shall file a general rate application not later than 5 p.m. on
18 or before the first Monday in June 2011, and at least once every 36
19 months thereafter.

20 (c) A public utility that furnishes water for municipal, industrial
21 or domestic purposes or services for the disposal of sewage, or both,
22 which had an annual gross operating revenue of \$2,000,000 or more
23 for at least 1 year during the immediately preceding 3 years and
24 which had not filed a general rate application with the Commission
25 on or after July 1, 2005, shall file a general rate application on or
26 before June 30, 2008, and at least once every 36 months thereafter
27 unless waived by the Commission pursuant to standards adopted by
28 regulation of the Commission. If a public utility furnishes both
29 water and services for the disposal of sewage, its annual gross
30 operating revenue for each service must be considered separately for
31 determining whether the public utility meets the requirements of this
32 paragraph for either service.

33 (d) A public utility that furnishes water for municipal, industrial
34 or domestic purposes or services for the disposal of sewage, or both,
35 which had an annual gross operating revenue of \$2,000,000 or more
36 for at least 1 year during the immediately preceding 3 years and
37 which had filed a general rate application with the Commission on
38 or after July 1, 2005, shall file a general rate application on or before
39 June 30, 2009, and at least once every 36 months thereafter unless
40 waived by the Commission pursuant to standards adopted by
41 regulation of the Commission. If a public utility furnishes both
42 water and services for the disposal of sewage, its annual gross
43 operating revenue for each service must be considered separately for
44 determining whether the public utility meets the requirements of this
45 paragraph for either service.



1 ➤ The Commission shall adopt regulations setting forth standards
2 for waivers pursuant to paragraphs (c) and (d) and for including the
3 costs incurred by the public utility in preparing and presenting the
4 general rate application before the effective date of any change in
5 rates.

6 4. In addition to submitting the statement required pursuant to
7 subsection 3, a public utility may submit with its general rate
8 application a statement showing the effects, on an annualized basis,
9 of all expected changes in circumstances. If such a statement is
10 filed, it must include all increases and decreases in revenue and
11 expenses which may occur within 210 days after the date on which
12 its general rate application is filed with the Commission if such
13 expected changes in circumstances are reasonably known and are
14 measurable with reasonable accuracy. If a public utility submits
15 such a statement, the public utility has the burden of proving that the
16 expected changes in circumstances set forth in the statement are
17 reasonably known and are measurable with reasonable accuracy.
18 The Commission shall consider expected changes in circumstances
19 to be reasonably known and measurable with reasonable accuracy if
20 the expected changes in circumstances consist of specific and
21 identifiable events or programs rather than general trends, patterns
22 or developments, have an objectively high probability of occurring
23 to the degree, in the amount and at the time expected, are primarily
24 measurable by recorded or verifiable revenues and expenses and are
25 easily and objectively calculated, with the calculation of the
26 expected changes relying only secondarily on estimates, forecasts,
27 projections or budgets. If the Commission determines that the public
28 utility has met its burden of proof:

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

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

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

44 6. If a public utility files with the Commission a general rate
45 application, the public utility shall not file with the Commission



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1 another general rate application until all pending general rate
2 applications filed by that public utility have been decided by the
3 Commission unless, after application and hearing, the Commission
4 determines that a substantial financial emergency would exist if the
5 public utility is not permitted to file another general rate application
6 sooner. The provisions of this subsection do not prohibit the public
7 utility from filing with the Commission, while a general rate
8 application is pending, an application to recover the increased cost
9 of purchased fuel, purchased power, or natural gas purchased for
10 resale pursuant to subsection 7, a quarterly rate adjustment pursuant
11 to subsection 8 or 10, any information relating to deferred
12 accounting requirements pursuant to NRS 704.185 or an annual
13 deferred energy accounting adjustment application pursuant to NRS
14 704.187, if the public utility is otherwise authorized to so file by
15 those provisions.

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

20 (a) An electric utility which is required to adjust its rates on a
21 quarterly basis pursuant to subsection 10; or

22 (b) A public utility which purchases natural gas for resale and
23 which adjusts its rates on a quarterly basis pursuant to subsection 8.

24 8. A public utility which purchases natural gas for resale must
25 request approval from the Commission to adjust its rates on a
26 quarterly basis between annual rate adjustment applications based
27 on changes in the public utility's recorded costs of natural gas
28 purchased for resale. A public utility which purchases natural gas
29 for resale and which adjusts its rates on a quarterly basis may
30 request approval from the Commission to make quarterly
31 adjustments to its deferred energy accounting adjustment. The
32 Commission shall approve or deny such a request not later than 120
33 days after the application is filed with the Commission. The
34 Commission may approve the request if the Commission finds that
35 approval of the request is in the public interest. If the Commission
36 approves a request to make quarterly adjustments to the deferred
37 energy accounting adjustment of a public utility pursuant to this
38 subsection, any quarterly adjustment to the deferred energy
39 accounting adjustment must not exceed 2.5 cents per therm of
40 natural gas. If the balance of the public utility's deferred account
41 varies by less than 5 percent from the public utility's annual
42 recorded costs of natural gas which are used to calculate quarterly
43 rate adjustments, the deferred energy accounting adjustment must be
44 set to zero cents per therm of natural gas.



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1 9. If the Commission approves a request to make any rate
2 adjustments on a quarterly basis pursuant to subsection 8:

3 (a) The public utility shall file written notice with the
4 Commission before the public utility makes a quarterly rate
5 adjustment. A quarterly rate adjustment is not subject to the
6 requirements for notice and a hearing pursuant to NRS 703.320 or
7 the requirements for a consumer session pursuant to subsection 1 of
8 NRS 704.069.

9 (b) The public utility shall provide written notice of each
10 quarterly rate adjustment to its customers by including the written
11 notice with a customer's regular monthly bill. The public utility
12 shall begin providing such written notice to its customers not later
13 than 30 days after the date on which the public utility files its
14 written notice with the Commission pursuant to paragraph (a). The
15 written notice that is included with a customer's regular monthly
16 bill:

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

19 (2) Must include the following:

20 (I) The total amount of the increase or decrease in the
21 public utility's revenues from the rate adjustment, stated in dollars
22 and as a percentage;

23 (II) The amount of the monthly increase or decrease in
24 charges for each class of customer or class of service, stated in
25 dollars and as a percentage;

26 (III) A statement that customers may send written
27 comments or protests regarding the rate adjustment to the
28 Commission;

29 (IV) A statement that the transactions and recorded costs
30 of natural gas which are the basis for any quarterly rate adjustment
31 will be reviewed for reasonableness and prudence in the next
32 proceeding held by the Commission to review the annual rate
33 adjustment application pursuant to paragraph (d); and

34 (V) Any other information required by the Commission.

35 (c) The public utility shall file an annual rate adjustment
36 application with the Commission. The annual rate adjustment
37 application is subject to the requirements for notice and a hearing
38 pursuant to NRS 703.320 and the requirements for a consumer
39 session pursuant to subsection 1 of NRS 704.069.

40 (d) The proceeding regarding the annual rate adjustment
41 application must include a review of each quarterly rate adjustment
42 and the transactions and recorded costs of natural gas included in
43 each quarterly filing and the annual rate adjustment application.
44 There is no presumption of reasonableness or prudence for any
45 quarterly rate adjustment or for any transactions or recorded costs of



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1 natural gas included in any quarterly rate adjustment or the annual
2 rate adjustment application, and the public utility has the burden of
3 proving reasonableness and prudence in the proceeding.

4 (e) The Commission shall not allow the public utility to recover
5 any recorded costs of natural gas which were the result of any
6 practice or transaction that was unreasonable or was undertaken,
7 managed or performed imprudently by the public utility, and the
8 Commission shall order the public utility to adjust its rates if the
9 Commission determines that any recorded costs of natural gas
10 included in any quarterly rate adjustment or the annual rate
11 adjustment application were not reasonable or prudent.

12 10. An electric utility shall adjust its rates on a quarterly basis
13 based on changes in the electric utility's recorded costs of purchased
14 fuel or purchased power. In addition to adjusting its rates on a
15 quarterly basis, an electric utility may request approval from the
16 Commission to make quarterly adjustments to its deferred energy
17 accounting adjustment. The Commission shall approve or deny such
18 a request not later than 120 days after the application is filed with
19 the Commission. The Commission may approve the request if the
20 Commission finds that approval of the request is in the public
21 interest. If the Commission approves a request to make quarterly
22 adjustments to the deferred energy accounting adjustment of an
23 electric utility pursuant to this subsection, any quarterly adjustment
24 to the deferred energy accounting adjustment must not exceed 0.25
25 cents per kilowatt-hour of electricity. If the balance of the electric
26 utility's deferred account varies by less than 5 percent from the
27 electric utility's annual recorded costs for purchased fuel or
28 purchased power which are used to calculate quarterly rate
29 adjustments, the deferred energy accounting adjustment must be set
30 to zero cents per kilowatt-hour of electricity.

31 11. A quarterly rate adjustment filed pursuant to subsection 10
32 is subject to the following requirements:

33 (a) The electric utility shall file written notice with the
34 Commission on or before August 15, 2007, and every quarter
35 thereafter of the quarterly rate adjustment to be made by the electric
36 utility for the following quarter. The first quarterly rate adjustment
37 by the electric utility will take effect on October 1, 2007, and each
38 subsequent quarterly rate adjustment will take effect every quarter
39 thereafter. The first quarterly adjustment to a deferred energy
40 accounting adjustment must be made pursuant to an order issued by
41 the Commission approving the application of an electric utility to
42 make quarterly adjustments to its deferred energy accounting
43 adjustment. A quarterly rate adjustment is not subject to the
44 requirements for notice and a hearing pursuant to NRS 703.320 or



1 the requirements for a consumer session pursuant to subsection 1 of
2 NRS 704.069.

3 (b) The electric utility shall provide written notice of each
4 quarterly rate adjustment to its customers by including the written
5 notice with a customer's regular monthly bill. The electric utility
6 shall begin providing such written notice to its customers not later
7 than 30 days after the date on which the electric utility files a written
8 notice with the Commission pursuant to paragraph (a). The written
9 notice that is included with a customer's regular monthly bill:

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

12 (2) Must include the following:

13 (I) The total amount of the increase or decrease in the
14 electric utility's revenues from the rate adjustment, stated in dollars
15 and as a percentage;

16 (II) The amount of the monthly increase or decrease in
17 charges for each class of customer or class of service, stated in
18 dollars and as a percentage;

19 (III) A statement that customers may send written
20 comments or protests regarding the rate adjustment to the
21 Commission;

22 (IV) A statement that the transactions and recorded costs
23 of purchased fuel or purchased power which are the basis for any
24 quarterly rate adjustment will be reviewed for reasonableness and
25 prudence in the next proceeding held by the Commission to review
26 the annual deferred energy accounting adjustment application
27 pursuant to paragraph (d); and

28 (V) Any other information required by the Commission.

29 (c) The electric utility shall file an annual deferred energy
30 accounting adjustment application pursuant to NRS 704.187 with
31 the Commission. The annual deferred energy accounting adjustment
32 application is subject to the requirements for notice and a hearing
33 pursuant to NRS 703.320 and the requirements for a consumer
34 session pursuant to subsection 1 of NRS 704.069.

35 (d) The proceeding regarding the annual deferred energy
36 accounting adjustment application must include a review of each
37 quarterly rate adjustment and the transactions and recorded costs of
38 purchased fuel and purchased power included in each quarterly
39 filing and the annual deferred energy accounting adjustment
40 application. There is no presumption of reasonableness or prudence
41 for any quarterly rate adjustment or for any transactions or recorded
42 costs of purchased fuel and purchased power included in any
43 quarterly rate adjustment or the annual deferred energy accounting
44 adjustment application, and the electric utility has the burden of
45 proving reasonableness and prudence in the proceeding.



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(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.

12. If an electric utility files an annual deferred energy accounting adjustment application pursuant to subsection 11 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.

13. 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, *or the retirement or elimination of a utility facility identified in an emissions reduction and capacity replacement plan submitted pursuant to section 7 of this act and accepted by the Commission for retirement or elimination 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, *or retiring or eliminating, as applicable*, such a facility.

14. In regard to any rate or schedule approved or disapproved pursuant to this section, the Commission may, after a hearing:

(a) Upon the request of the utility, approve a new rate but delay the implementation of that new rate:

(1) Until a date determined by the Commission; and

(2) Under conditions as determined by the Commission, including, without limitation, a requirement that interest charges be included in the collection of the new rate; and

(b) Authorize a utility to implement a reduced rate for low-income residential customers.

15. The Commission may, upon request and for good cause shown, permit a public utility which purchases natural gas for resale or an electric utility to make a quarterly adjustment to its deferred



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1 energy accounting adjustment in excess of the maximum allowable
2 adjustment pursuant to subsection 8 or 10.

3 16. A public utility which purchases natural gas for resale or an
4 electric utility that makes quarterly adjustments to its deferred
5 energy accounting adjustment pursuant to subsection 8 or 10 may
6 submit to the Commission for approval an application to discontinue
7 making quarterly adjustments to its deferred energy accounting
8 adjustment and to subsequently make annual adjustments to its
9 deferred energy accounting adjustment. The Commission may
10 approve an application submitted pursuant to this subsection if the
11 Commission finds that approval of the application is in the public
12 interest.

13 17. As used in this section:

14 (a) "Deferred energy accounting adjustment" means the rate of a
15 public utility which purchases natural gas for resale or an electric
16 utility that is calculated by dividing the balance of a deferred
17 account during a specified period by the total therms or kilowatt-
18 hours which have been sold in the geographical area to which the
19 rate applies during the specified period.

20 (b) "Electric utility" has the meaning ascribed to it in
21 NRS 704.187.

22 (c) "Electric utility that primarily serves densely populated
23 counties" means an electric utility that, with regard to the provision
24 of electric service, derives more of its annual gross operating
25 revenue in this State from customers located in counties whose
26 population is 700,000 or more than it does from customers located
27 in counties whose population is less than 700,000.

28 (d) "Electric utility that primarily serves less densely populated
29 counties" means an electric utility that, with regard to the provision
30 of electric service, derives more of its annual gross operating
31 revenue in this State from customers located in counties whose
32 population is less than 700,000 than it does from customers located
33 in counties whose population is 700,000 or more.

34 **Sec. 16.** NRS 704.746 is hereby amended to read as follows:

35 704.746 1. After a utility has filed its plan pursuant to NRS
36 704.741, the Commission shall convene a public hearing on the
37 adequacy of the plan.

38 2. The Commission shall determine the parties to the public
39 hearing on the adequacy of the plan. A person or governmental
40 entity may petition the Commission for leave to intervene as a party.
41 The Commission must grant a petition to intervene as a party in the
42 hearing if the person or entity has relevant material evidence to
43 provide concerning the adequacy of the plan. The Commission may
44 limit participation of an intervener in the hearing to avoid
45 duplication and may prohibit continued participation in the hearing



1 by an intervener if the Commission determines that continued
2 participation will unduly broaden the issues, will not provide
3 additional relevant material evidence or is not necessary to further
4 the public interest.

5 3. In addition to any party to the hearing, any interested person
6 may make comments to the Commission regarding the contents and
7 adequacy of the plan.

8 4. After the hearing, the Commission shall determine whether:

9 (a) The forecast requirements of the utility are based on
10 substantially accurate data and an adequate method of forecasting.

11 (b) The plan identifies and takes into account any present and
12 projected reductions in the demand for energy that may result from
13 measures to improve energy efficiency in the industrial,
14 commercial, residential and energy producing sectors of the area
15 being served.

16 (c) The plan adequately demonstrates the economic,
17 environmental and other benefits to this State and to the customers
18 of the utility, associated with the following possible measures and
19 sources of supply:

20 (1) Improvements in energy efficiency;

21 (2) Pooling of power;

22 (3) Purchases of power from neighboring states or countries;

23 (4) Facilities that operate on solar or geothermal energy or
24 wind;

25 (5) Facilities that operate on the principle of cogeneration or
26 hydrogeneration;

27 (6) Other generation facilities; and

28 (7) Other transmission facilities.

29 5. The Commission may give preference to the measures and
30 sources of supply set forth in paragraph (c) of subsection 4 that:

31 (a) Provide the greatest economic and environmental benefits to
32 the State;

33 (b) Are consistent with the provisions of this section; ~~and~~

34 (c) Provide levels of service that are adequate and reliable ~~H~~ ;
35 *and*

36 *(d) Provide the greatest opportunity for the creation of new*
37 *jobs in this State.*

38 6. The Commission shall:

39 (a) Adopt regulations which determine the level of preference to
40 be given to those measures and sources of supply; and

41 (b) Consider the value to the public of using water efficiently
42 when it is determining those preferences.

43 7. The Commission shall:



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(a) Consider the level of financial commitment from developers of renewable energy projects in each renewable energy zone, as designated pursuant to subsection 2 of NRS 704.741; and

(b) Adopt regulations establishing a process for considering such commitments including, without limitation, contracts for the sale of energy, leases of land and mineral rights, cash deposits and letters of credit.

8. The Commission shall, after a hearing, review and accept or modify an emissions reduction and capacity replacement plan which includes each element required by section 7 of this act. In considering whether to accept or modify an emissions reduction and capacity replacement plan, the Commission shall consider:

(a) The cost to the customers of the electric utility to implement the plan;

(b) Whether the plan provides the greatest economic benefit to this State;

(c) Whether the plan provides the greatest opportunities for the creation of new jobs in this State; and

(d) Whether the plan represents the best value to the customers of the electric utility.

Sec. 17. NRS 704.751 is hereby amended to read as follows:

704.751 1. After a utility has filed the plan required pursuant to NRS 704.741, the Commission shall issue an order accepting the plan as filed or specifying any portions of the plan it deems to be inadequate:

(a) Within 135 days for any portion of the plan relating to the energy supply plan for the utility for the 3 years covered by the plan; and

(b) Within 180 days for all portions of the plan not described in paragraph (a).

2. If a utility files an amendment to a plan, the Commission shall issue an order accepting the amendment as filed or specifying any portions of the amendment it deems to be inadequate ~~within~~ :

(a) Within 135 days ~~to~~ after the filing of the amendment ~~to~~ ;
or

(b) Within 180 days after the filing of the amendment for all portions of the amendment which contain an element of the emissions reduction and capacity replacement plan.

3. All prudent and reasonable expenditures made to develop the utility's plan, including environmental, engineering and other studies, must be recovered from the rates charged to the utility's customers.

4. The Commission may accept a transmission plan submitted pursuant to subsection 4 of NRS 704.741 for a renewable energy zone if the Commission determines that the construction or




1 expansion of transmission facilities would facilitate the utility
2 meeting the portfolio standard, as defined in NRS 704.7805.

3 5. The Commission shall adopt regulations establishing the
4 criteria for determining the adequacy of a transmission plan
5 submitted pursuant to subsection 4 of NRS 704.741.

6 ***6. Any order issued by the Commission accepting an element
7 of an emissions reduction and capacity replacement plan must
8 include provisions authorizing the electric utility to construct or
9 acquire and own electric generating plants necessary to meet the
10 capacity amounts approved in, and carry out the provisions of, the
11 plan. As used in this subsection, "capacity" means an amount of
12 firm electric generating capacity used by the electric utility for the
13 purpose of preparing a plan filed with the Commission pursuant to
14 NRS 704.736 to 704.754, inclusive.***

15 **Sec. 18.** NRS 704.7588 is hereby amended to read as follows:

16 704.7588 Except as otherwise provided in NRS 704.7591 
17 ***and sections 2 to 13, inclusive, of this act:***

18 1. Before July 1, 2003, an electric utility shall not dispose of a
19 generation asset.

20 2. On or after July 1, 2003, an electric utility shall not dispose
21 of a generation asset unless, before the disposal, the Commission
22 approves the disposal by a written order issued in accordance with
23 the provisions of this section.

24 3. Not sooner than January 1, 2003, an electric utility may file
25 with the Commission an application to dispose of a generation asset
26 on or after July 1, 2003. If an electric utility files such an
27 application, the Commission shall not approve the application
28 unless the Commission finds that the disposal of the generation asset
29 will be in the public interest. The Commission shall issue a written
30 order approving or disapproving the application. The Commission
31 may base its approval of the application upon such terms, conditions
32 or modifications as the Commission deems appropriate.

33 4. If an electric utility files an application to dispose of a
34 generation asset, the Consumer's Advocate shall be deemed a party
35 of record.

36 5. If the Commission approves an application to dispose of a
37 generation asset before July 1, 2003, the order of the Commission
38 approving the application:

39 (a) May not become effective sooner than July 1, 2003;

40 (b) Does not create any vested rights before the effective date of
41 the order; and

42 (c) For the purposes of NRS 703.373, shall be deemed a final
43 decision on the date on which the order is issued by the
44 Commission.



Sec. 19. NRS 444.495 is hereby amended to read as follows:

444.495 "Solid waste management authority" means:

1. ~~{The}~~ *Except as otherwise provided in subsection 2, the* district board of health in any area in which a health district has been created pursuant to NRS 439.362 or 439.370 and in any area over which the board has authority pursuant to an interlocal agreement, if the board has adopted all regulations that are necessary to carry out the provisions of NRS 444.440 to 444.620, inclusive.

2. In all other areas of the State ~~{}~~ *and pursuant to section 10 of this act, at any site previously used for the production of electricity from a coal-fired electric generating plant in this State,* the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

Sec. 20. NRS 445B.500 is hereby amended to read as follows:

445B.500 1. Except as otherwise provided in this section and in NRS 445B.310 ~~{}~~ *and section 10 of this act:*

(a) The district board of health, county board of health or board of county commissioners in each county whose population is 100,000 or more shall establish a program for the control of air pollution and administer the program within its jurisdiction unless superseded.

(b) The program:

(1) Must include, without limitation, standards for the control of emissions, emergency procedures and variance procedures established by ordinance or local regulation which are equivalent to or stricter than those established by statute or state regulation;

(2) May, in a county whose population is 700,000 or more, include requirements for the creation, receipt and exchange for consideration of credits to reduce and control air contaminants in accordance with NRS 445B.508; and

(3) Must provide for adequate administration, enforcement, financing and staff.

(c) The district board of health, county board of health or board of county commissioners is designated as the air pollution control agency of the county for the purposes of NRS 445B.100 to 445B.640, inclusive, and the Federal Act insofar as it pertains to local programs, and that agency is authorized to take all action necessary to secure for the county the benefits of the Federal Act.

(d) Powers and responsibilities provided for in NRS 445B.210, 445B.240 to 445B.470, inclusive, 445B.560, 445B.570, 445B.580 and 445B.640 are binding upon and inure to the benefit of local air pollution control authorities within their jurisdiction.

2. The local air pollution control board shall carry out all provisions of NRS 445B.215 with the exception that notices of



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1 public hearings must be given in any newspaper, qualified pursuant
2 to the provisions of chapter 238 of NRS, once a week for 3 weeks.
3 The notice must specify with particularity the reasons for the
4 proposed regulations and provide other informative details. NRS
5 445B.215 does not apply to the adoption of existing regulations
6 upon transfer of authority as provided in NRS 445B.610.

7 3. In a county whose population is 700,000 or more, the local
8 air pollution control board may delegate to an independent hearing
9 officer or hearing board its authority to determine violations and
10 levy administrative penalties for violations of the provisions of NRS
11 445B.100 to 445B.450, inclusive, and 445B.500 to 445B.640,
12 inclusive, or any regulation adopted pursuant to those sections. If
13 such a delegation is made, 17.5 percent of any penalty collected
14 must be deposited in the county treasury in an account to be
15 administered by the local air pollution control board to a maximum
16 of \$17,500 per year. The money in the account may only be used to
17 defray the administrative expenses incurred by the local air pollution
18 control board in enforcing the provisions of NRS 445B.100 to
19 445B.640, inclusive. The remainder of the penalty must be
20 deposited in the county school district fund of the county where the
21 violation occurred and must be accounted for separately in the fund.
22 A school district may spend the money received pursuant to this
23 section only in accordance with an annual spending plan that is
24 approved by the local air pollution control board and shall submit an
25 annual report to that board detailing the expenditures of the school
26 district under the plan. A local air pollution control board shall
27 approve an annual spending plan if the proposed expenditures set
28 forth in the plan are reasonable and limited to:

29 (a) Programs of education on topics relating to air quality; and

30 (b) Projects to improve air quality, including, without limitation,
31 the purchase and installation of equipment to retrofit school buses of
32 the school district to use biodiesel, compressed natural gas or a
33 similar fuel formulated to reduce emissions from the amount of
34 emissions produced by the use of traditional fuels such as gasoline
35 and diesel fuel,

36 ➤ which are consistent with the state implementation plan adopted
37 by this State pursuant to 42 U.S.C. §§ 7410 and 7502.

38 4. Any county whose population is less than 100,000 or any
39 city may meet the requirements of this section for administration
40 and enforcement through cooperative or interlocal agreement with
41 one or more other counties, or through agreement with the State, or
42 may establish its own program for the control of air pollution. If the
43 county establishes such a program, it is subject to the approval of
44 the Commission.



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1 5. No district board of health, county board of health or board
2 of county commissioners may adopt any regulation or establish a
3 compliance schedule, variance order or other enforcement action
4 relating to the control of emissions from plants which generate
5 electricity by using steam produced by the burning of fossil fuel.

6 6. As used in this section, "plants which generate electricity by
7 using steam produced by the burning of fossil fuel" means plants
8 that burn fossil fuels in a boiler to produce steam for the production
9 of electricity. The term does not include any plant which uses
10 technology for a simple or combined cycle combustion turbine,
11 regardless of whether the plant includes duct burners.

12 **Sec. 21.** (Deleted by amendment.)

13 **Sec. 21.5.** The amendatory provisions of this act do not
14 prohibit an electric utility, as defined in section 4 of this act, from
15 requesting pursuant to NRS 704.736 to 704.751, inclusive, or the
16 Public Utilities Commission of Nevada from authorizing, the
17 issuance by the electric utility of requests for proposals for
18 renewable energy facilities in addition to any requests for proposals
19 necessary to carry out the provisions of paragraph (b) of subsection
20 2 of section 7 of this act, but the electric utility must demonstrate
21 that the issuance of any such request for proposals for renewable
22 energy facilities complies with the requirements of NRS 704.7801
23 to 704.7828, inclusive.

24 **Sec. 22.** This act becomes effective upon passage and
25 approval.

