

SENATE BILL NO. 252—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

MARCH 15, 2013

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to the portfolio standard for providers of electric service. (BDR 58-775)

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 renewable energy; revising provisions which specify the renewable energy systems which qualify as portfolio energy systems; revising provisions relating to the implementation of energy efficiency measures by a provider of electric service for the purpose of complying with the renewable portfolio standard; revising provisions relating to the carrying forward to subsequent calendar years of the excess kilowatt-hours of electricity that a provider generates or acquires from portfolio energy systems; requiring the Public Utilities Commission of Nevada to open an investigatory docket to study, examine and review the process for the sale of portfolio energy credits; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill revises provisions relating to the portfolio standard for providers of electric service, which requires that each year each provider of electric service in this State must generate or acquire from renewable energy systems or save as a result of energy efficiency measures a certain percentage of the electricity sold by the provider to its retail customers in this State.

In 2005, the 22nd Special Session of the Legislature revised the portfolio standard to authorize a provider to meet a portion of the portfolio standard through savings achieved from energy efficiency measures. (Sections 26-29 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, pp. 82-84) **Section 6** of this bill revises the portfolio standard to limit the use of savings achieved from energy efficiency measures by a provider to satisfy the portfolio standard.



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Section 4 of this bill revises the definition of “portfolio energy system or efficiency measure” to provide that a renewable energy system or energy efficiency measure qualifies as a portfolio energy system if: (1) the renewable energy system was placed into operation before July 1, 1997, and a provider used electricity generated or acquired from the system to satisfy the portfolio standard before July 1, 2009; (2) the renewable energy system was placed into operation on or after July 1, 1997; or (3) the energy efficiency measure was installed on or before December 31, 2019.

Existing law provides that a provider is entitled to one portfolio energy credit for each kilowatt-hour of electricity that the provider generates, acquires or saves from a portfolio energy system or efficiency measure. (NRS 704.78215) **Section 8** of this bill excludes from the calculation of portfolio energy credit certain electricity used by a portfolio energy system for its basic operations if the portfolio energy system is placed into operation on or after January 1, 2016.

Existing law provides that, for the purpose of satisfying the portfolio standard, a provider shall be deemed to have generated or acquired 2.4 kilowatt-hours of electricity from certain solar photovoltaic systems for each 1 kilowatt-hour actually generated or acquired. (NRS 704.7822) **Section 9** of this bill revises the applicability of this provision to systems that were placed into operation on or before December 31, 2015.

Existing law requires the Public Utilities Commission of Nevada to authorize a provider to carry forward into future years any excess kilowatt-hours of electricity the provider generates or acquires from portfolio energy systems if the provider exceeds the portfolio standard for any calendar year. (NRS 704.7828) **Section 11** of this bill authorizes a provider that carries forward excess kilowatt-hours of electricity in an amount that is more than 10 percent but less than 25 percent of the amount necessary to satisfy the provider’s portfolio standard for the subsequent calendar year to sell the excess kilowatt-hours of electricity the provider generates or acquires from portfolio energy systems. **Section 11** requires a provider to make reasonable efforts to sell any credits which are in excess of 25 percent of the amount of portfolio energy credits necessary to comply with its portfolio standard for the subsequent calendar year.

Section 14 of this bill requires the Commission to open an investigatory docket to study, examine and review the process for the sale of portfolio energy credits and to submit a written report on the results of the investigatory docket and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the 78th Session of the Nevada Legislature.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 704.7804 is hereby amended to read as follows:

704.7804 “Portfolio energy system or efficiency measure” means:

1. Any renewable energy system ~~† or~~

~~2. Any energy efficiency measure.† :~~

(a) Placed into operation before July 1, 1997, if a provider of electric service used electricity generated or acquired from the



1 *renewable energy system to satisfy its portfolio standard before*
2 *July 1, 2009; or*

3 *(b) Placed into operation on or after July 1, 1997; or*

4 *2. Any energy efficiency measure installed on or before*
5 *December 31, 2019.*

6 **Sec. 5.** (Deleted by amendment.)

7 **Sec. 6.** NRS 704.7821 is hereby amended to read as follows:

8 704.7821 1. For each provider of electric service, the
9 Commission shall establish a portfolio standard. The portfolio
10 standard must require each provider to generate, acquire or save
11 electricity from portfolio energy systems or efficiency measures in
12 an amount that is:

13 (a) For calendar years 2005 and 2006, not less than 6 percent of
14 the total amount of electricity sold by the provider to its retail
15 customers in this State during that calendar year.

16 (b) For calendar years 2007 and 2008, not less than 9 percent of
17 the total amount of electricity sold by the provider to its retail
18 customers in this State during that calendar year.

19 (c) For calendar years 2009 and 2010, not less than 12 percent
20 of the total amount of electricity sold by the provider to its retail
21 customers in this State during that calendar year.

22 (d) For calendar years 2011 and 2012, not less than 15 percent
23 of the total amount of electricity sold by the provider to its retail
24 customers in this State during that calendar year.

25 (e) For calendar years 2013 and 2014, not less than 18 percent
26 of the total amount of electricity sold by the provider to its retail
27 customers in this State during that calendar year.

28 (f) For calendar years 2015 through 2019, inclusive, not less
29 than 20 percent of the total amount of electricity sold by the
30 provider to its retail customers in this State during that calendar
31 year.

32 (g) For calendar years 2020 through 2024, inclusive, not less
33 than 22 percent of the total amount of electricity sold by the
34 provider to its retail customers in this State during that calendar
35 year.

36 (h) For calendar year 2025 and for each calendar year thereafter,
37 not less than 25 percent of the total amount of electricity sold by the
38 provider to its retail customers in this State during that calendar
39 year.

40 2. In addition to the requirements set forth in subsection 1, the
41 portfolio standard for each provider must require that:

42 (a) Of the total amount of electricity that the provider is required
43 to generate, acquire or save from portfolio energy systems or
44 efficiency measures during each calendar year, not less than:



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(1) For calendar years 2009 through 2015, inclusive, 5 percent of that amount must be generated or acquired from solar renewable energy systems.

(2) For calendar year 2016 and for each calendar year thereafter, 6 percent of that amount must be generated or acquired from solar renewable energy systems.

(b) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures ~~during~~ :

(1) During calendar years 2013 and 2014, not more than 25 percent of that amount may be based on energy efficiency measures;

(2) During each calendar year ~~2013~~ 2015 to 2019, inclusive, not more than ~~25~~ 20 percent of that amount may be based on energy efficiency measures ~~2013~~ ;

(3) During each calendar year 2020 to 2024, inclusive, not more than 10 percent of that amount may be based on energy efficiency measures; and

(4) For calendar year 2025 and each calendar year thereafter, no portion of that amount may be based on energy efficiency measures.

➡ If the provider intends to use energy efficiency measures to comply with its portfolio standard during any calendar year, of the total amount of electricity saved from energy efficiency measures for which the provider seeks to obtain portfolio energy credits pursuant to this paragraph, at least 50 percent of that amount must be saved from energy efficiency measures installed at service locations of residential customers of the provider, unless a different percentage is approved by the Commission.

(c) If the provider acquires or saves electricity from a portfolio energy system or efficiency measure pursuant to a renewable energy contract or energy efficiency contract with another party:

(1) The term of the contract must be not less than 10 years, unless the other party agrees to a contract with a shorter term; and

(2) The terms and conditions of the contract must be just and reasonable, as determined by the Commission. If the provider is a utility provider and the Commission approves the terms and conditions of the contract between the utility provider and the other party, the contract and its 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.

3. If, for the benefit of one or more retail customers in this State, the provider has paid for or directly reimbursed, in whole or in part, the costs of the acquisition or installation of a solar energy system which qualifies as a renewable energy system and which



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1 reduces the consumption of electricity, the total reduction in the
2 consumption of electricity during each calendar year that results
3 from the solar energy system shall be deemed to be electricity that
4 the provider generated or acquired from a renewable energy system
5 for the purposes of complying with its portfolio standard.

6 4. The Commission shall adopt regulations that establish a
7 system of portfolio energy credits that may be used by a provider to
8 comply with its portfolio standard.

9 5. Except as otherwise provided in subsection 6, each provider
10 shall comply with its portfolio standard during each calendar year.

11 6. If, for any calendar year, a provider is unable to comply with
12 its portfolio standard through the generation of electricity from its
13 own renewable energy systems or, if applicable, through the use of
14 portfolio energy credits, the provider shall take actions to acquire or
15 save electricity pursuant to one or more renewable energy contracts
16 or energy efficiency contracts. If the Commission determines that,
17 for a calendar year, there is not or will not be a sufficient supply of
18 electricity or a sufficient amount of energy savings made available
19 to the provider pursuant to renewable energy contracts and energy
20 efficiency contracts with just and reasonable terms and conditions,
21 the Commission shall exempt the provider, for that calendar year,
22 from the remaining requirements of its portfolio standard or from
23 any appropriate portion thereof, as determined by the Commission.

24 7. The Commission shall adopt regulations that establish:

25 (a) Standards for the determination of just and reasonable terms
26 and conditions for the renewable energy contracts and energy
27 efficiency contracts that a provider must enter into to comply with
28 its portfolio standard.

29 (b) Methods to classify the financial impact of each long-term
30 renewable energy contract and energy efficiency contract as an
31 additional imputed debt of a utility provider. The regulations must
32 allow the utility provider to propose an amount to be added to the
33 cost of the contract, at the time the contract is approved by the
34 Commission, equal to a compensating component in the capital
35 structure of the utility provider. In evaluating any proposal made by
36 a utility provider pursuant to this paragraph, the Commission shall
37 consider the effect that the proposal will have on the rates paid by
38 the retail customers of the utility provider.

39 8. Except as otherwise provided in NRS 704.78213, the
40 provisions of this section do not apply to a provider of new electric
41 resources as defined in NRS 704B.130.

42 9. As used in this section:

43 (a) "Energy efficiency contract" means a contract to attain
44 energy savings from one or more energy efficiency measures
45 owned, operated or controlled by other parties.



(b) "Renewable energy contract" means a contract to acquire electricity from one or more renewable energy systems owned, operated or controlled by other parties.

(c) "Terms and conditions" includes, without limitation, the price that a provider must pay to acquire electricity pursuant to a renewable energy contract or to attain energy savings pursuant to an energy efficiency contract.

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 704.78215 is hereby amended to read as follows:

704.78215 1. Except as otherwise provided in this section or by specific statute, a provider is entitled to one portfolio energy credit for each kilowatt-hour of electricity that the provider generates, acquires or saves from a portfolio energy system or efficiency measure.

2. The Commission may adopt regulations that give a provider more than one portfolio energy credit for each kilowatt-hour of electricity saved by the provider during its peak load period from energy efficiency measures.

3. Except as otherwise provided in this subsection, for portfolio energy systems placed into operation on or after January 1, 2016, the amount of electricity generated or acquired from a portfolio energy system does not include the amount of any electricity used by the portfolio energy system for its basic operations that reduce the amount of renewable energy delivered to the transmission grid for distribution and sale to customers of the provider. The provisions of this subsection do not apply to a portfolio energy system placed into operation on or after January 1, 2016, if a provider entered into a contract for the purchase of electricity generated by the portfolio energy system on or before December 31, 2012. For the purposes of this section, the amount of any electricity used by a portfolio energy system for its basic operations does not include the electricity used by a portfolio energy system that generates electricity from geothermal energy for the extraction and transportation of geothermal brine.

Sec. 9. NRS 704.7822 is hereby amended to read as follows:

704.7822 For the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 or 704.78213, a provider shall be deemed to have generated or acquired 2.4 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a solar photovoltaic system, if:

1. The system is installed on the premises of a retail customer;

~~and~~

2. *The system was placed into operation on or before December 31, 2015; and*



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3. On an annual basis, at least 50 percent of the electricity generated by the system is utilized by the retail customer on that premises.

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 704.7828 is hereby amended to read as follows:

704.7828 1. The Commission shall adopt regulations to carry out and enforce the provisions of NRS 704.7801 to 704.7828, inclusive. The regulations adopted by the Commission may include any enforcement mechanisms which are necessary and reasonable to ensure that each provider of electric service complies with its portfolio standard. Such enforcement mechanisms may include, without limitation, the imposition of administrative fines.

2. If a provider exceeds the portfolio standard for any calendar year ~~the~~:

(a) The Commission shall authorize the provider to carry forward to subsequent calendar years for the purpose of complying with the portfolio standard for those subsequent calendar years any excess kilowatt-hours of electricity that the provider generates, acquires or saves from portfolio energy systems or efficiency measures ~~H~~;

(b) *By more than 10 percent but less than 25 percent of the amount of portfolio energy credits necessary to comply with its portfolio standard for the subsequent calendar year, the provider may sell any portfolio energy credits which are in excess of 10 percent of the amount of portfolio energy credits necessary to comply with its portfolio standard for the subsequent calendar year; and*

(c) *By 25 percent or more of the amount of portfolio energy credits necessary to comply with its portfolio standard for the subsequent calendar year, the provider shall use reasonable efforts to sell any portfolio energy credits which are in excess of 25 percent of the amount of portfolio energy credits necessary to comply with its portfolio standard for the subsequent calendar year.*

Any money received by a provider from the sale of portfolio energy credits pursuant to paragraphs (b) and (c) must be credited against the provider's costs for purchased fuel and purchased power pursuant to NRS 704.187 in the same calendar year in which the money is received, less any verified administrative costs incurred by the provider to make the sale, including any costs incurred to qualify the portfolio energy credits for potential sale regardless of whether such sales are made.

3. If a provider does not comply with its portfolio standard for any calendar year and the Commission has not exempted the



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1 provider from the requirements of its portfolio standard pursuant to
2 NRS 704.7821 or 704.78213, the Commission:

3 (a) Shall require the provider to carry forward to subsequent
4 calendar years the amount of the deficiency in kilowatt-hours of
5 electricity that the provider does not generate, acquire or save from
6 portfolio energy systems or efficiency measures during a calendar
7 year in violation of its portfolio standard; and

8 (b) May impose an administrative fine against the provider or
9 take other administrative action against the provider, or do both.

10 4. ~~The~~ *Except as otherwise provided in subsection 5, the*
11 Commission may impose an administrative fine against a provider
12 based upon:

13 (a) Each kilowatt-hour of electricity that the provider does not
14 generate, acquire or save from portfolio energy systems or
15 efficiency measures during a calendar year in violation of its
16 portfolio standard; or

17 (b) Any other reasonable formula adopted by the Commission.

18 5. *If a provider sells any portfolio energy credits pursuant to*
19 *paragraph (b) or (c) of subsection 2 in any calendar year in which*
20 *the Commission determines that the provider did not comply with*
21 *its portfolio standard, the Commission shall not make any*
22 *adjustment to the provider's expenses or revenues and shall not*
23 *impose on the provider any administrative fine authorized by this*
24 *section for that calendar year if:*

25 (a) *In the calendar year immediately preceding the calendar*
26 *year in which the portfolio energy credits were sold, the amount of*
27 *portfolio energy credits held by the provider and attributable to*
28 *electricity generated, acquired or saved from portfolio energy*
29 *systems or efficiency measures by the provider exceeded the*
30 *amount of portfolio energy credits necessary to comply with the*
31 *provider's portfolio standard by more than 10 percent;*

32 (b) *The price received for any portfolio energy credits sold by*
33 *the provider was not lower than the most recent value of portfolio*
34 *energy credits, net of any energy value if the price was for bundled*
35 *energy and credits, as determined by reference to the last long-*
36 *term renewable purchased power agreements approved by the*
37 *Commission in the most recent proceeding that included such*
38 *agreements; and*

39 (c) *The provider would have complied with the portfolio*
40 *standard in the relevant year even after the sale of portfolio energy*
41 *credits based on the load forecast of the provider at the time of the*
42 *sale.*

43 6. In the aggregate, the administrative fines imposed against a
44 provider for all violations of its portfolio standard for a single
45 calendar year must not exceed the amount which is necessary and



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1 reasonable to ensure that the provider complies with its portfolio
2 standard, as determined by the Commission.

3 ~~16-1~~ 7. If the Commission imposes an administrative fine
4 against a utility provider:

5 (a) The administrative fine is not a cost of service of the utility
6 provider;

7 (b) The utility provider shall not include any portion of the
8 administrative fine in any application for a rate adjustment or rate
9 increase; and

10 (c) The Commission shall not allow the utility provider to
11 recover any portion of the administrative fine from its retail
12 customers.

13 ~~17-1~~ 8. All administrative fines imposed and collected pursuant
14 to this section must be deposited in the State General Fund.

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

16 **Sec. 13.** (Deleted by amendment.)

17 **Sec. 14.** 1. As soon as practicable after October 1, 2013, the
18 Public Utilities Commission of Nevada shall open an investigatory
19 docket to study, examine and review the process for the sale of
20 portfolio energy credits, as defined in NRS 704.7803, to determine
21 whether the process can be improved to:

22 (a) Better enable providers of electric service, as defined in NRS
23 704.7808, to engage in the sale of portfolio energy credits; and

24 (b) Provide the greatest economic benefit to customers of
25 providers of electric service in this State.

26 2. The following parties may participate in the investigatory
27 docket:

28 (a) Each provider of electric service operating in this State;

29 (b) The Regulatory Operations Staff of the Commission;

30 (c) The Consumer's Advocate and the Bureau of Consumer
31 Protection in the Office of the Attorney General; and

32 (d) Any other interested parties.

33 3. The Commission shall, on or before January 31, 2015,
34 submit a written report on the results of the investigatory docket and
35 any recommendations for legislation to the Director of the
36 Legislative Counsel Bureau for transmittal to the 78th Session of the
37 Nevada Legislature.

