

SENATE BILL NO. 339—SENATOR HARDY

MARCH 18, 2013

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to electric utilities.
(BDR 58-835)

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; revising provisions relating to the portfolio standard; prohibiting the carrying forward of certain portfolio energy credits; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Public Utilities Commission of Nevada is required to establish a portfolio standard that requires each provider of electric service to generate, acquire or save from portfolio energy systems or efficiency measures a certain percentage of the electricity sold by the provider to its retail customers. (NRS 704.7821) **Section 1** of this bill allows a provider additionally to meet the portfolio standard by generating electricity from portfolio energy systems regardless of whether the provider sells such electricity to its retail customers.

Existing law requires the Commission to authorize a provider that exceeds the portfolio standard for any calendar year to carry forward excess kilowatt-hours of electricity to subsequent calendar years for the purpose of complying with the portfolio standard in those subsequent calendar years. (NRS 704.7828) Beginning in calendar year 2014, **section 2** of this bill establishes a cap of 20 percent on the amount of excess kilowatt-hours of electricity that the Commission may authorize a provider to carry forward for the purposes of complying with the portfolio standard in subsequent calendar years. Beginning in calendar year 2016 and for each calendar year thereafter, **section 2** reduces to 10 percent the cap on the amount of excess kilowatt-hours of electricity that the Commission may authorize a provider to carry forward for the purposes of complying with the portfolio standard in subsequent calendar years.



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

Section 1. NRS 704.7821 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

(a) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or 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 each calendar year, not more than 25 percent 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 reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

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

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



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

7. The Commission shall adopt regulations that establish:

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

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

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

9. As used in this section:

(a) "Energy efficiency contract" means a contract to attain energy savings from one or more energy efficiency measures 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. 2. 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,



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1 inclusive. The regulations adopted by the Commission may include
2 any enforcement mechanisms which are necessary and reasonable to
3 ensure that each provider of electric service complies with its
4 portfolio standard. Such enforcement mechanisms may include,
5 without limitation, the imposition of administrative fines.

6 2. If a provider exceeds the portfolio standard for any calendar
7 year, the Commission shall authorize the provider to carry forward
8 to subsequent calendar years for the purpose of complying with the
9 portfolio standard for those subsequent calendar years ~~any~~ :

10 (a) *For calendar years 2014 and 2015, not more than 20*
11 *percent of the excess kilowatt-hours of electricity that the provider*
12 *generates, acquires or saves from portfolio energy systems or*
13 *efficiency measures.*

14 (b) *For calendar year 2016 and for each calendar year*
15 *thereafter, not more than 10 percent of the excess kilowatt hours*
16 *of electricity that the provider generates, acquires or saves from*
17 *portfolio energy systems or efficiency measures.*

18 3. If a provider does not comply with its portfolio standard for
19 any calendar year and the Commission has not exempted the
20 provider from the requirements of its portfolio standard pursuant to
21 NRS 704.7821 or 704.78213, the Commission:

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

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

29 4. The Commission may impose an administrative fine against
30 a provider based upon:

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

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

36 5. In the aggregate, the administrative fines imposed against a
37 provider for all violations of its portfolio standard for a single
38 calendar year must not exceed the amount which is necessary and
39 reasonable to ensure that the provider complies with its portfolio
40 standard, as determined by the Commission.

41 6. If the Commission imposes an administrative fine against a
42 utility provider:

43 (a) The administrative fine is not a cost of service of the utility
44 provider;



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

4 (c) The Commission shall not allow the utility provider to
5 recover any portion of the administrative fine from its retail
6 customers.

7 7. All administrative fines imposed and collected pursuant to
8 this section must be deposited in the State General Fund.

9 **Sec. 3.** This act becomes effective upon passage and approval.

