

SENATE BILL NO. 366—SENATOR GOICOECHEA

MARCH 18, 2013

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to certain providers of electric service. (BDR 58-1042)

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 electric service; authorizing certain providers of electric service to file an application with the Public Utilities Commission of Nevada to request to be relieved of duties to provide electric service; authorizing certain customers of such providers to file an application with the Commission to request that such a provider of electric service be relieved of its duty to provide the service and that the customer be authorized to obtain electricity from certain other suppliers; revising provisions governing service of legal process in certain actions; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides that certain cooperative associations or nonprofit corporations or associations and other suppliers of utility services supplying those services for the use of their own members only are subject to only limited jurisdiction, control and regulation of the Public Utilities Commission of Nevada. (NRS 704.673, 704.675, 704.677) **Section 10** of this bill authorizes such an association, corporation or supplier that is a member of an entity which generates and transmits electricity and which is regulated by the Federal Energy Regulatory Commission to request to be relieved of its duty to provide electric service to certain customers by filing an application with the Public Utilities Commission of Nevada. **Section 10** similarly authorizes such a customer to request that such a provider of electric service be relieved of its duty to provide the service and that the customer be authorized to obtain electricity from certain other suppliers.

If an application filed pursuant to **section 10** is opposed, **section 14** of this bill requires the Public Utilities Commission of Nevada to hold a hearing and authorizes the Commission to deny the application if the Commission determines that: (1) harm to a customer or member of the provider of electric service would occur; or (2) no workably competitive market would exist.



\* S B 3 6 6 \*

Existing law provides that legal process in any action to recover damages may be served on certain foreign manufacturers, producers and suppliers of products. (NRS 14.080) **Section 17** of this bill provides that such process may also be served on certain foreign producers and suppliers of energy.

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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 15, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 15, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Adequate service” means continuous service:*

*1. From resources for generating electricity; or*

*2. Pursuant to contractual commitments with an entity that is:*

*(a) Authorized by the Federal Energy Regulatory Commission to act as a power marketer; and*

*(b) Credit-worthy.*

**Sec. 4.** *“Credit-worthy” means having an investment grade credit rating by two or more nationally recognized bond credit rating agencies.*

**Sec. 5.** *“Eligible customer” means a single business entity having electrical demands of 25 megawatts or more, on average, for at least the most recent 24 months.*

**Sec. 6.** *“Harm” means investments made by a holder to provide electric service to an eligible customer:*

*1. Not reimbursed or otherwise compensated by the eligible customer; and*

*2. To be borne, directly or indirectly, in whole or in part, by a remaining customer, customers, member or members of the holder after the eligible customer ceases to receive electric service from the holder.*

**Sec. 7.** *“Holder” means a cooperative association, nonprofit corporation or association or other provider of electric service:*

*1. To which the Commission has issued a certificate of public convenience and necessity pursuant to the provisions of NRS 704.677; and*

*2. Which is a member of an entity that:*

*(a) Generates and transmits electricity; and*

*(b) Is regulated by the Federal Energy Regulatory Commission.*



1     **Sec. 8.** *"Licensed supplier" means an entity that is*  
2 *authorized as a power marketer by the Federal Energy Regulatory*  
3 *Commission.*

4     **Sec. 9.** *"Workably competitive market" means a situation in*  
5 *which there exist two or more credit-worthy licensed suppliers,*  
6 *each capable of providing, and willing to provide, electricity to an*  
7 *eligible customer.*

8     **Sec. 10.** *A holder may request to be relieved of its duty to*  
9 *provide electric service to an eligible customer, or an eligible*  
10 *customer may request that a holder be relieved of its duty to*  
11 *provide electric service to the eligible customer and that the*  
12 *eligible customer be authorized to obtain electricity from a*  
13 *licensed supplier that is credit-worthy, by:*

14     1. *Filing an application making such a request with the*  
15 *Commission; and*

16     2. *Upon the filing of the application, publishing notice of the*  
17 *filing of the application in a newspaper of general circulation in*  
18 *the county in which electric service is provided to the eligible*  
19 *customer.*

20     **Sec. 11.** *An application filed with the Commission pursuant*  
21 *to section 10 of this act must include, without limitation:*

22     1. *The full name, mailing address, telephone number and*  
23 *other contact information of the eligible customer, and an*  
24 *indication as to whether the eligible customer is the applicant;*

25     2. *The full name, mailing address, telephone number and*  
26 *other contact information of the holder, and an indication as to*  
27 *whether the holder is the applicant;*

28     3. *The full name, mailing address, telephone number and*  
29 *other contact information of the applicant's authorized*  
30 *representative or attorney, if applicable;*

31     4. *A description of the holder's certificate of public*  
32 *convenience and necessity in sufficient detail so that it can be*  
33 *identified;*

34     5. *A copy of the bylaws of the holder or an explanation of*  
35 *why the bylaws are unavailable;*

36     6. *A copy of any contract that is purported to obligate the*  
37 *holder to obtain all the electricity which it requires from a third*  
38 *person;*

39     7. *The demand, in megawatts, of the eligible customer for*  
40 *each of the 24 months preceding the month in which the*  
41 *application was filed;*

42     8. *For an application by a holder, the names, addresses,*  
43 *telephone numbers and other contact information of two or more*  
44 *credit-worthy licensed suppliers, each capable of providing, and*  
45 *willing to provide, electricity to the eligible customer;*



9. For an application by an eligible customer, the name, address, telephone number and other contact information of a credit-worthy licensed supplier that is capable of providing, and willing to provide, electricity to the eligible customer;

10. The name, address, telephone number and other contact information of a provider of transmission service that is capable of providing, and willing to provide, transmission service to the eligible customer; and

11. A plain and simple statement of the need for relief requested, upon which the Commission can determine whether, if the application were to be granted, there would be:

(a) Harm to a customer or member of the holder; or

(b) No workably competitive market.

**Sec. 12.** A holder or any of its customers or members who wish to oppose or comment on the application or relief requested must:

1. File an opposition or comments with the Commission within 30 days after receiving notice of the filing of the application; and

2. Upon the filing of the opposition or comments, publish notice of the filing of the opposition or comments in a newspaper of general circulation in the county in which electric service is provided to the eligible customer.

**Sec. 13.** 1. An applicant or the entity filing an opposition to or comments on the application may:

(a) Identify information included in the application, opposition or comments, as applicable, as commercially sensitive; and

(b) Request that the information so identified be designated as confidential.

2. The Commission shall designate and treat as confidential any information identified pursuant to paragraph (a) of subsection 1.

3. Information designated as confidential pursuant to this section must not be disclosed to third parties.

**Sec. 14.** 1. If an application is opposed, the Commission shall set the matter for hearing, in which case the Commission shall take action on the application within 180 days after its filing or the application shall be deemed to be denied.

2. After a hearing, the Commission may deny an application that has been opposed if the Commission determines that, if the application were to be granted, there would be:

(a) Harm to a customer or member of the holder; or

(b) No workably competitive market. In determining whether or not a workably competitive market exists, the Commission may consider whether transmission service is available or can be



1 *obtained by the eligible customer from the provider who provides*  
2 *electric service or transmission service as of the date of the*  
3 *application.*

4 **Sec. 15.** 1. *If an opposition to an application is not filed*  
5 *pursuant to section 12 of this act within 30 days after the filing of*  
6 *the application, the Commission:*

7 (a) *May grant an application if the Commission concludes that*  
8 *a workably competitive market exists from which the eligible*  
9 *customer may obtain adequate service from a licensed supplier*  
10 *that is credit-worthy. In determining whether or not a workably*  
11 *competitive market exists, the Commission may consider whether*  
12 *transmission service is available or can be obtained by the eligible*  
13 *customer from the provider who provides electric service or*  
14 *transmission service as of the date of the application.*

15 (b) *Shall be deemed to have amended the certificate of public*  
16 *convenience and necessity to limit the holder's obligations to*  
17 *provide electric service.*

18 2. *If the Commission grants the application pursuant to*  
19 *subsection 1, the eligible customer shall commence to obtain*  
20 *electricity from a licensed supplier that is credit-worthy not later*  
21 *than 90 days after:*

22 (a) *Receipt of notice of the filing of an application by a holder;*  
23 *or*

24 (b) *The filing of an application by the eligible customer.*

25 3. *An eligible customer that commences to obtain electricity*  
26 *from a licensed supplier that is credit-worthy pursuant to*  
27 *subsection 2 shall:*

28 (a) *Supply or cause to be supplied at its own expense all of the*  
29 *metering necessary for the transmission and distribution of the*  
30 *electricity to the eligible customer; and*

31 (b) *Promptly reimburse the holder for any services provided to*  
32 *the eligible customer.*

33 **Sec. 16.** NRS 704.675 is hereby amended to read as follows:

34 704.675 Every cooperative association or nonprofit corporation  
35 or association and every other supplier of services described in this  
36 chapter supplying those services for the use of its own members  
37 only is hereby declared to be affected with a public interest, to be a  
38 public utility, and to be subject to the jurisdiction, control and  
39 regulation of the Commission for the purposes of NRS 703.191,  
40 704.330, 704.350 to 704.410, inclusive, *and sections 2 to 15,*  
41 *inclusive, of this act,* but not to any other jurisdiction, control and  
42 regulation of the Commission or to the provisions of any section not  
43 specifically mentioned in this section.



**Sec. 17.** NRS 14.080 is hereby amended to read as follows:

14.080 1. Any company, firm, partnership, corporation or association created and existing under the laws of any other state, territory, foreign government or the Government of the United States, which manufactures, produces, makes, markets or otherwise supplies directly or indirectly any product *or form of energy* for distribution, sale or use in this state may be lawfully served with any legal process in any action to recover damages for an injury to a person or property resulting from such distribution, sale or use in this state by mailing to the last known address of the company, firm, partnership, corporation or association, by registered or certified mail return receipt requested, a copy of the summons and a copy of the complaint.

2. In all cases of such service, the defendant has 40 days, exclusive of the day of service, within which to answer or plead.

3. This section provides an additional manner of serving process and does not invalidate any other service.

**Sec. 18.** This act becomes effective on July 1, 2013.

