

Amendment No. 174

Senate Amendment to Senate Bill No. 358	(BDR 58-301)
Proposed by: Senate Committee on Growth and Infrastructure	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

JFD/BJF



Date: 4/9/2019

S.B. No. 358—Revises provisions relating to the renewable energy portfolio standard. (BDR 58-301)



SENATE BILL NO. 358—SENATORS BROOKS,
CANNIZZARO AND DENIS

MARCH 18, 2019

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions relating to the renewable energy portfolio standard. (BDR 58-301)

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; declaring the policy of this State concerning renewable energy; revising provisions governing certain reports relating to the portfolio standard; revising provisions relating to the price charged by certain electric utilities for electricity generated by certain renewable energy facilities; revising provisions relating to the acquisition or construction of renewable energy facilities by certain electric utilities; ~~revising provisions governing certain plans for the construction or expansion of transmission facilities to serve renewable energy zones and to facilitate compliance with the portfolio standard;~~ revising the types of renewable energy that may be used to comply with the portfolio standard; revising the portfolio standard for providers of electric service in this State; ~~revising the manner in which providers of electric service may comply with the portfolio standard;~~ revising the applicability of the portfolio standard; revising the authority of the Public Utilities Commission of Nevada to impose administrative fines or take administrative action; requiring the Public Utilities Commission of Nevada to revise any existing portfolio standard applicable to a provider of new electric resources to comply with the portfolio standard established by this act; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 8 of this bill sets forth findings and declarations of the Legislature that it is the policy of this State to: (1) encourage and accelerate the development of new renewable energy projects for the economic, health and environmental benefits provided to the people of this State; (2) become a leading producer and consumer of clean and renewable energy, with a goal of achieving by 2050 an amount of energy production from zero carbon dioxide emission resources that is equal to the total amount of electricity sold by providers of electric service in this State; and (3) ensure that the benefits of the increased use of portfolio energy systems and energy efficiency measures are received by the residents of this State.

Section ~~6~~ 7 of this bill authorizes certain electric utilities to acquire, without additional approval of the Public Utilities Commission of Nevada, an existing renewable energy facility or a renewable energy facility that is being developed if: (1) the Commission had previously accepted an integrated resource plan or amendment to such a plan that provided for the purchase of the electricity generated by the facility pursuant to an agreement between the electric utility and the facility; (2) the electric utility notifies the Commission that the facility will not be included in its rate base and the expenses associated with the facility will not be included in its revenue requirement and, instead, the utility will charge a just and reasonable price for the electricity generated by the facility which is based on a competitive market price established by the Commission; (3) the electric utility notifies the Commission that it will use the mechanism established by regulations adopted pursuant to section 7 6 of this bill to charge that just and reasonable price to its customers; ~~and~~ (4) the electric utility notifies the Commission that it agrees to be bound by the terms and conditions of the agreement for the purchase of the electricity generated by the facility that was previously approved by the Commission ~~and~~; and (5) the utility acknowledges that, following the conclusion of the term of the agreement, the utility may not include the facility in its rate base and the expenses associated with the facility may not be included in its revenue requirement. Section 5 of this bill defines "renewable energy facility."

Section ~~7~~ 6 of this bill authorizes certain electric utilities ~~that intends to acquire or construct a renewable energy facility~~ to ~~the~~ request approval ~~of~~ from the Commission to exclude ~~the~~ a renewable energy facility owned by the utility from its rate base and the expenses associated with the facility from its revenue requirement and, instead, charge a just and reasonable price established by the Commission for the electricity generated by the facility. Under section 7 6, the just and reasonable price must be established by reference to a competitive market price for electricity and without reference to rate-of-return or cost-of-service principles. Section 7 6 further requires the Commission to adopt regulations to establish a mechanism by which certain electric utilities may charge the just and reasonable price established for the electricity generated by a renewal energy facility to its customers. Sections 11.3, 13 and 14 make conforming changes.

~~[— Existing law requires a utility which supplies electricity in this State to submit a triennial plan to increase its supply of electricity and decrease the demands made on its system by customers. (NRS 704.741) Section 16 of this bill requires the plan to identify and evaluate certain network upgrades and options for the construction or expansion of transmission facilities.]~~

Existing law requires the Public Utilities Commission of Nevada to establish a portfolio standard which requires each provider of electric service in this State to generate, acquire or save electricity from renewable energy systems or efficiency measures in a certain percentage of the total amount of electricity sold by the provider to its retail customers in this State during a calendar year. (NRS 704.7821) **Section 22** of this bill revises the portfolio standard for calendar year 2021 and each calendar year thereafter so that by calendar year 2030 and for each calendar year thereafter, each provider of electric service will be required to generate, acquire or save electricity from renewable energy systems or efficiency measures not less than 50 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year. **Section 22** also: (1) eliminates the requirement that a minimum percentage of the amount of electricity that the provider is required to generate, acquire or save be generated or acquired from solar renewable energy systems; (2) revises, for the purposes of compliance with the portfolio standard, the provisions governing the calculation of the total amount of electricity sold by a provider to its retail customers in this State; and (3) authorizes the Commission to exempt a provider from some or all of the requirements of its portfolio standard for a calendar year if the provider is unable to obtain a sufficient supply of electricity to comply with the standard due to a delay in the completion of a renewable energy system or the underperformance of an existing renewable energy system under the control of a person or entity other than the provider. ~~[Section 22 also provides that a provider may satisfy its portfolio standard for a calendar year if the total amount of electricity generated, acquired or saved from portfolio energy systems or energy efficiency measures during a 3-year period ending with that calendar year represents a percentage of the total amount of electricity sold by the provider to retail customers in that period is not less than the percentage required for the portfolio standard for that year.]~~

Section 19 of this bill provides that a portfolio energy system or energy efficiency measure includes a renewable energy system placed into operation before July 1, 1997, that uses waterpower to generate electricity if the waterpower is acquired by a provider from another party who is not a provider of electricity pursuant to a contract for a term of not less than 10 years ~~+~~ and the provider began acquiring the waterpower pursuant to the contract before the effective date of this act.

Section 20 of this bill expands the definition of “provider of electric service” for the purposes of compliance with the portfolio standard. **Sections 10 and 24** of this bill provide that ~~[the State and instrumentalities of the State are]~~ certain providers of electric service are not subject to the jurisdiction of the Commission and are not required to provide certain reports to the Commission. ~~+~~ even if the State or instrumentality of the State is a provider of electric service. **Section 24** also provides that certain providers are not required to provide certain reports to the Commission during any year in which the total amount of electricity sold by the provider to its retail customers during that calendar year is less than 1,000,000 megawatt-hours. **Section 9** of this bill requires ~~[the State, or an instrumentality of the State, if it is a provider of electric service,]~~ certain providers of electric service to provide reports to the Director of the Office of Energy. **Section 22** requires certain providers to submit to the Commission a report during any year in which the total amount of electricity sold by the provider to its retail customers during that calendar year is less than 1,000,000 megawatt-hours.

Section 21 of this bill expands the definition of “renewable energy” with respect to the kinds of waterpower that are considered renewable energy. **Sections 1-3, 11, 12, 15, 17 and 25-27** of this bill make conforming changes so that the amendments to existing law set forth in **section 21** do not affect other provisions of existing law governing renewable energy.

Sections 22 and 23 of this bill provide that the revised portfolio standard established by **section 22** is applicable to providers of new electric resources, and also eliminates a limitation on the authority for a provider of new electric resources to use energy efficiency measures to comply with the portfolio standard. **Section 28** of this bill requires the Commission to revise certain portfolio standards established for a provider of new electric resources to comply with the revised portfolio standard established by **section 22**.

Existing law provides that certain cooperatives, nonprofit corporations and associations supplying utility services in this State solely to their own members are subject to the jurisdiction of the Commission only for certain limited purposes. (NRS 704.675) Section 11.7 of this bill provides that such cooperatives, nonprofit corporations and associations are subject to the jurisdiction of the Commission for the purpose of complying with the renewable portfolio standard. Section 21.5 of this bill makes conforming changes.

Existing law authorizes the Commission to impose an administrative fine or take administrative action against a provider that does not comply with its portfolio standard and has not been excused from such compliance. (NRS 704.7828) Section 24.5 of this bill provides that the Commission may only impose an administrative fine or take administrative action against a provider that does not comply with its portfolio standard during any calendar year after 2018 and before 2030 if the provider also did not comply with its portfolio standard for the immediately preceding 2 calendar years.

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

Section 1. NRS 701.055 is hereby amended to read as follows:

701.055 “Energy development project” means a project for the generation, transmission and development of energy located on public or private land. The term includes, without limitation:

1. A utility facility, as defined in NRS 704.860, constructed on private land; and

2. Electric generating plants and their associated facilities which use or will use renewable energy, as defined in NRS ~~[704.7811]~~ 704.7715, as their primary source of energy to generate electricity.

Sec. 2. NRS 701.380 is hereby amended to read as follows:

701.380 1. The Director shall:

(a) Coordinate the activities and programs of the Office of Energy with the activities and programs of the Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(b) Spend the money in the Trust Account for Renewable Energy and Energy Conservation to:

(1) Educate persons and entities concerning renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(2) Create incentives for investment in and the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(3) Distribute grants and other money to establish programs and projects which incorporate the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(4) Conduct feasibility studies, including, without limitation, any feasibility studies concerning the establishment or expansion of any grants, incentives, rebates or other programs to enable or assist persons to reduce the cost of purchasing distributed generation systems and on-site generation systems and net metering systems that use renewable energy.

(c) Take any other actions that the Director deems necessary to carry out the duties of the Office of Energy, including, without limitation, contracting with consultants, if necessary, for the purposes of program design or to assist the Director in carrying out the duties of the Office.

2. The Director shall prepare an annual report concerning the activities and programs of the Office of Energy and submit the report to the Legislative Commission and the Governor on or before January 30 of each year. The annual report must include, without limitation:

(a) A description of the objectives of each activity and program;

(b) An analysis of the effectiveness and efficiency of each activity and program in meeting the objectives of the activity or program;

(c) The amount of money distributed for each activity and program from the Trust Account for Renewable Energy and Energy Conservation and a detailed description of the use of that money for each activity and program;

(d) An analysis of the coordination between the Office of Energy and other officers and agencies; and

(e) Any changes planned for each activity and program.

3. As used in this section:

(a) "Distributed generation system" means a facility or system for the generation of electricity that is in close proximity to the place where the electricity is consumed:

(1) That uses renewable energy as defined in NRS ~~[704.7811]~~ 704.7715 to generate electricity;

(2) That is located on the property of a customer of an electric utility;

(3) That is connected on the customer's side of the electricity meter;

(4) That provides electricity primarily to offset customer load on that property; and

(5) The excess generation from which is periodically exported to the grid in accordance with the provisions governing net metering systems used by customer-generators pursuant to NRS 704.766 to 704.777, inclusive.

(b) "Electric utility" has the meaning ascribed to it in NRS 704.7571.

Sec. 3. NRS 701B.790 is hereby amended to read as follows:

701B.790 "Waterpower" has the meaning ascribed to it in subsection 3 of NRS ~~704.7811~~ **704.7715**.

Sec. 4. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 10, inclusive, of this act.

Sec. 5. *"Renewable energy facility" has the meaning ascribed to it in NRS 704.7315.*

Sec. 6. ~~*[A utility may, without any additional approval of the Commission, acquire an existing renewable energy facility or a renewable energy facility that is being developed if:*~~

~~*1. The Commission has accepted a provision of a plan or an amendment to a plan pursuant to NRS 704.751 that provides for the purchase of the electricity generated by the renewable energy facility pursuant to an agreement for the purchase of that electricity;*~~

~~*2. The utility provides a notice to the Commission which states:*~~

~~*(a) That the utility will not include the renewable energy facility in its rate base and will use the mechanism established by the regulations adopted by the Commission pursuant to subsection 3 of section 7 of this act to account for the electricity generated by the renewable energy facility and charge a just and reasonable price for that electricity to its customers through the deferred accounting mechanism set forth in NRS 704.187;*~~

~~*(b) The competitive market price for the electricity generated by the facility that was used to establish a just and reasonable price that the utility will charge its customers for electricity generated by the renewable energy facility is a competitive market price approved by the Commission; and*~~

~~*(c) The utility agrees to be bound by all of the terms and conditions of the agreement for the purchase of the electricity that was accepted by the Commission pursuant to NRS 704.751.]*~~

1. A utility or two or more utilities under common ownership may, in a plan filed pursuant to NRS 704.741 or an amendment to such a plan, request that the Commission establish a just and reasonable price for the energy produced by a renewable energy facility owned by such utility or utilities by means of reference to a competitive market rate. A request pursuant to this subsection must include a request that the Commission exclude any capital investment associated with the renewable energy facility from the rate base of the utility or utilities and expenses associated with such facility from the revenue requirement of the utility or utilities.

2. If a utility or utilities make a request pursuant to subsection 1, the Commission may grant the request. If the Commission grants the request, any capital investment made by the utility or utilities in such a renewable energy facility must be excluded from the rate base of the utility or utilities and all expenses associated with the facility must be excluded from the revenue requirement of the utility or utilities. The just and reasonable price for the electricity generated by the renewable energy facility must be established by reference to a competitive market price for the electricity, without regard or reference to the principles of cost of service or rate of return price setting. The Commission may determine a competitive market price based on the results of a

1 reasonably contemporaneous competitive request for proposals for a substantially
2 similar product with substantially similar terms and conditions, including
3 duration of the proposal.

4 3. In an order approving or modifying a plan filed by a utility or utilities
5 pursuant to NRS 704.741 or an amendment to such a plan that includes a
6 provision for the acquisition of a renewable energy facility, the Commission may
7 establish reasonable performance terms and conditions for the generation and
8 sale of the electricity.

9 4. The Commission shall establish by regulation a mechanism by which a
10 utility that is authorized to charge its customers a just and reasonable price
11 established by the Commission for the electricity generated by a renewable energy
12 facility may account for the electricity generated by the renewable energy facility
13 and charge the just and reasonable price for that electricity to its customers
14 through the mechanism set forth in NRS 704.187. The regulations adopted
15 pursuant to this subsection also must ensure that no costs shall be borne by
16 customers of the utility other than those costs approved by the Commission to be
17 reflected in the mechanism set forth in NRS 704.187 for the term specified in the
18 Commission's order. At the conclusion of the term, the Commission shall not
19 allow the utility to include the remaining capital investment, if any, associated
20 with such a facility in the utility's rate base or to include any expenses associated
21 with the facility in the utility's revenue requirement. The Commission may
22 establish regulations for the utility to make a proposal regarding recovery of a
23 just and reasonable price for energy produced by the facility beyond the initial
24 term approved by the Commission by filing a plan pursuant to NRS 704.741 or an
25 amendment to such a plan. Any such proposal must be reviewed and approved by
26 the Commission before any other costs associated with the facility are charged to
27 customers through the mechanism set forth in NRS 704.187.

28 5. As part of any order issued by the Commission approving or modifying a
29 plan filed by a utility or utilities pursuant to NRS 704.741 or an amendment to
30 such plan that includes a provision for the acquisition of a renewable energy
31 facility pursuant to subsection 2, the Commission shall make all findings
32 necessary to support the conclusion that the facility is not public utility property
33 as defined in section 168(i) of the Internal Revenue Code, 26 U.S.C. § 168(i).

34 Sec. 7. ~~1. A utility or utilities that have filed a plan pursuant to NRS~~
35 ~~704.741 or an amendment to such a plan that includes a provision for the~~
36 ~~acquisition or construction of a renewable energy facility may request that the~~
37 ~~Commission exclude the renewable energy facility from the rate base of the~~
38 ~~utility. If a utility makes such a request, the Commission may exclude the~~
39 ~~renewable energy facility from the rate base of the utility and authorize the utility~~
40 ~~to charge from its customers a just and reasonable price established by the~~
41 ~~Commission for the electricity generated by the renewable energy facility. The~~
42 ~~just and reasonable price for the electricity generated by the renewable energy~~
43 ~~facility must be established by reference to a competitive market price for the~~
44 ~~electricity, without regard to the principles of cost of service or rate of return.~~
45 ~~The Commission may determine a competitive market price based on the results~~
46 ~~of competitive requests for proposals for a substantially similar product.~~

47 ~~2. In an order approving or modifying a plan filed by a utility pursuant to~~
48 ~~NRS 704.741 or an amendment to such a plan that includes a provision for the~~
49 ~~acquisition or construction of a facility for the generation of electricity from solar~~
50 ~~energy, the Commission may establish reasonable performance terms and~~
51 ~~conditions for the generation and sale of the electricity.~~

52 ~~3. The Commission shall establish by regulation a mechanism by which a~~
53 ~~utility that is authorized to charge its customers a just and reasonable price~~

~~established by the Commission for the electricity generated by a renewable energy facility may account for the electricity generated by the renewable energy facility and charge the just and reasonable price for that electricity to its customers through the mechanism set forth in NRS 704.187.]~~

A utility may, without any additional approval of the Commission, acquire an existing renewable energy facility or a renewable energy facility that is being developed if:

1. The Commission has accepted a provision of a plan or an amendment to a plan pursuant to NRS 704.751 that provides for the purchase of the electricity generated by the renewable energy facility pursuant to an agreement for the purchase of that electricity.

2. The utility provides a notice to the Commission which states:

(a) That the utility will not include the renewable energy facility in its rate base or expenses associated with the facility in its revenue requirement and, instead, will use the mechanism established by the regulations adopted by the Commission pursuant to subsection 4 of section 6 of this act to account for the electricity generated by the renewable energy facility and charge a just and reasonable price for that electricity to its customers through the deferred accounting mechanism set forth in NRS 704.187;

(b) The contract price originally approved by the Commission will be the just and reasonable price that the utility will charge its customers for electricity generated by the renewable energy facility pursuant to the accounting mechanism set forth in NRS 704.187;

(c) The utility agrees to be bound by all of the terms and conditions of the agreement for the purchase of the electricity that was accepted by the Commission pursuant to NRS 704.751 and acknowledges that, following the conclusion of the term of the agreement, the utility may not include:

(1) Any capital investment associated with the renewable energy facility in the utility's rate base; or

(2) Any expense associated with the renewable energy facility in the utility's revenue requirement; and

(d) That the utility acknowledges that, at the conclusion of the existing term of the agreement, the utility may not include a just and reasonable charge for the price of the electricity produced by the renewable energy facility in the deferred accounting mechanism set forth in NRS 704.187 unless the Commission approves a just and reasonable charge by reference to a competitive market price through a plan filed pursuant to NRS 704.741, or an amendment to such plan, filed by the utility pursuant to the regulations adopted by the Commission pursuant to subsection 4 of section 6 of this act.

Sec. 8. The Legislature finds and declares that it is the policy of this State to:

1. Encourage and accelerate the development of new renewable energy projects for the economic, health and environmental benefits provided to the people of this State;

2. Become a leading producer and consumer of clean and renewable energy, with a goal of achieving by 2050 an amount of energy production from zero carbon dioxide emission resources equal to the total amount of electricity sold by providers of electric service in this State; and

3. Ensure that the benefits of the increased use of portfolio energy systems and energy efficiency measures are received by the residents of this State. Such benefits include, without limitation, improved air quality, reduced water use, a more diverse portfolio of resources for generating electricity, reduced fossil fuel consumption and more stable rates for retail customers of electric service.

1 **Sec. 9.** *A provider of electric service that is ~~an agency or instrumentality of~~*
2 *~~this State~~ subject to NRS 704.787 shall, on or before July 1 of each year, submit*
3 *to the Director of the Office of Energy appointed pursuant to NRS 701.150 a*
4 *report that contains the information described in subsection 4 of NRS 704.7825.*

5 **Sec. 10.** *Notwithstanding any provision of law to the contrary, a provider of*
6 *electric service that is ~~an agency or instrumentality of this State~~ subject to NRS*
7 *704.787 is not subject to the jurisdiction of the Commission.*

8 **Sec. 11.** NRS 704.021 is hereby amended to read as follows:

9 704.021 “Public utility” or “utility” does not include:

10 1. Persons engaged in the production and sale of natural gas, other than sales
11 to the public, or engaged in the transmission of natural gas other than as a common
12 carrier transmission or distribution line or system.

13 2. Persons engaged in the business of furnishing, for compensation, water or
14 services for the disposal of sewage, or both, to persons within this State if:

15 (a) They serve 25 persons or less; and

16 (b) Their gross sales for water or services for the disposal of sewage, or both,
17 amounted to \$25,000 or less during the immediately preceding 12 months.

18 3. Persons not otherwise engaged in the business of furnishing, producing or
19 selling water or services for the disposal of sewage, or both, but who sell or furnish
20 water or services for the disposal of sewage, or both, as an accommodation in an
21 area where water or services for the disposal of sewage, or both, are not available
22 from a public utility, cooperative corporations and associations or political
23 subdivisions engaged in the business of furnishing water or services for the disposal
24 of sewage, or both, for compensation, to persons within the political subdivision.

25 4. Persons who are engaged in the production and sale of energy, including
26 electricity, to public utilities, cities, counties or other entities which are reselling the
27 energy to the public.

28 5. Persons who are subject to the provisions of NRS 590.465 to 590.645,
29 inclusive.

30 6. Persons who are engaged in the sale or use of special fuel as defined in
31 NRS 366.060.

32 7. Persons who provide water from water storage, transmission and treatment
33 facilities if those facilities are for the storage, transmission or treatment of water
34 from mining operations.

35 8. Persons who are video service providers, as defined in NRS 711.151,
36 except for those operations of the video service provider which consist of providing
37 a telecommunication service to the public, in which case the video service provider
38 is a public utility only with regard to those operations of the video service provider
39 which consist of providing a telecommunication service to the public.

40 9. Persons who own or operate a net metering system described in paragraph
41 (c) of subsection 1 of NRS 704.771.

42 10. Persons who for compensation own or operate individual systems which
43 use renewable energy to generate electricity and sell the electricity generated from
44 those systems to not more than one customer of the public utility per individual
45 system if each individual system is:

46 (a) Located on the premises of another person;

47 (b) Used to produce not more than 150 percent of that other person’s
48 requirements for electricity on an annual basis for the premises on which the
49 individual system is located; and

50 (c) Not part of a larger system that aggregates electricity generated from
51 renewable energy for resale or use on premises other than the premises on which
52 the individual system is located.

1 ➤ As used in this subsection, “renewable energy” has the meaning ascribed to it in
2 NRS ~~[704.7811.]~~ **704.7715.**

3 11. Persons who own, control, operate or manage a facility that supplies
4 electricity only for use to charge electric vehicles.

5 **Sec. 11.3. NRS 704.187 is hereby amended to read as follows:**

6 704.187 1. An electric utility that ~~[purchases]~~ :

7 **(a) Purchases** fuel or power shall use deferred accounting by recording upon
8 its books and records in deferred accounts all increases and decreases in costs for
9 purchased fuel and purchased power that are prudently incurred by the electric
10 utility.

11 **(b) Pursuant to section 6 of this act is approved by the Commission to charge**
12 **a just and reasonable price for the electricity generated by a renewable energy**
13 **facility shall use deferred accounting in accordance with the regulations adopted**
14 **by that section.**

15 2. An electric utility using deferred accounting :

16 **(a) Pursuant to paragraph (a) of subsection 1** shall include in its annual report
17 to the Commission a statement showing, for the period of recovery, the allocated
18 rate of return for each of its operating departments in this State using deferred
19 accounting.

20 **(b) Pursuant to paragraph (b) of subsection 1 shall include in its annual**
21 **report to the Commission any information that is required to be included in the**
22 **annual report by the regulations adopted pursuant to section 6 of this act.**

23 3. Except as otherwise provided in this section, an electric utility using
24 deferred accounting shall file an annual deferred energy accounting adjustment
25 application on or before March 1, 2008, and on or before March 1 of each year
26 thereafter.

27 4. An electric utility that purchases fuel or power and has received approval
28 from the Commission to make quarterly adjustments to its deferred energy
29 accounting adjustment pursuant to subsection 10 of NRS 704.110 is not eligible to
30 request an adjustment to its deferred energy accounting adjustment in its annual
31 deferred energy accounting adjustment application.

32 5. **An electric utility that, pursuant to section 6 of this act, is approved by**
33 **the Commission to charge a just and reasonable price for the electricity generated**
34 **by a renewable energy facility shall file deferred energy accounting adjustments**
35 **in accordance with the regulations adopted pursuant to section 6 of this act.**

36 6. As used in this section:

37 (a) “Annual deferred energy accounting adjustment application” means an
38 application filed by an electric utility pursuant to this section and subsection 11 of
39 NRS 704.110.

40 (b) “Costs for purchased fuel and purchased power” means all costs which are
41 prudently incurred by an electric utility and which are required to purchase fuel, to
42 purchase capacity and to purchase energy. The term does not include any costs that
43 the Commission determines are not recoverable pursuant to subsection 11 of NRS
44 704.110.

45 (c) “Electric utility” means any public utility or successor in interest that:

46 (1) Is in the business of providing electric service to customers;

47 (2) Holds a certificate of public convenience and necessity issued or
48 transferred pursuant to this chapter; and

49 (3) In the most recently completed calendar year or in any other calendar
50 year within the 7 calendar years immediately preceding the most recently
51 completed calendar year, had a gross operating revenue of \$250,000,000 or more in
52 this State.

➤ The term does not include a cooperative association, nonprofit corporation, nonprofit association or provider of electric service which is declared to be a public utility pursuant to NRS 704.673 and which provides service only to its members.

(d) "Renewable energy facility" has the meaning ascribed to it in NRS 704.7315.

Sec. 11.7. NRS 704.675 is hereby amended to read as follows:

704.675 Every cooperative association or nonprofit corporation or association and every other supplier of services described in this chapter supplying those services for the use of its own members only is hereby declared to be affected with a public interest, to be a public utility, and to be subject to the jurisdiction, control and regulation of the Commission for the purposes of NRS 703.191, 704.330, ~~and 704.350 to 704.410, inclusive,~~ and 704.7821, but not to any other jurisdiction, control and regulation of the Commission or to the provisions of any section not specifically mentioned in this section.

Sec. 12. NRS 704.7315 is hereby amended to read as follows:

704.7315 "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~~ 704.7715.

Sec. 13. NRS 704.736 is hereby amended to read as follows:

704.736 The application of NRS 704.736 to 704.754, inclusive, and sections 5, 6 and 7 of this act is limited to any public utility in the business of supplying electricity which has an annual operating revenue in this state of \$2,500,000 or more.

Sec. 14. NRS 704.7362 is hereby amended to read as follows:

704.7362 As used in NRS 704.736 to 704.754, inclusive, and sections 5, 6 and 7 of this act, unless the context otherwise requires, the words and terms defined in NRS 704.7364 and 704.7366 and section 5 of this act have the meanings ascribed to them in those sections.

Sec. 15. NRS 704.738 is hereby amended to read as follows:

704.738 1. A utility which supplies electricity in this state may apply to the Commission for authority to charge, as part of a program of optional pricing, a higher rate for electricity that is generated from renewable energy.

2. The program may provide the customers of the utility with the option of paying a higher rate for electricity to support the increased use by the utility of renewable energy in the generation of electricity.

3. As used in this section, "renewable energy" has the meaning ascribed to it in NRS ~~704.7811~~ 704.7715.

Sec. 16. ~~NRS 704.741 is hereby amended to read as follows:~~

~~704.741 1. A utility which supplies electricity in this State shall, on or before June 1 of every third year, in the manner specified by the Commission, submit a plan to increase its supply of electricity or decrease the demands made on its system by its customers to the Commission. Two or more utilities that are affiliated through common ownership and that have an interconnected system for the transmission of electricity shall submit a joint plan.~~

~~2. The Commission shall, by regulation:~~

~~(a) Prescribe the contents of such a plan, including, but not limited to, the methods or formulas which are used by the utility or utilities to:~~

~~(1) Forecast the future demands; and~~

~~(2) Determine the best combination of sources of supply to meet the demands or the best method to reduce them; and~~

~~(b) Designate renewable energy zones and revise the designated renewable energy zones as the Commission deems necessary.~~

~~3. The Commission shall require the utility or utilities to include in the plan:~~

~~— (a) An energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel and which includes, without limitation, the use of new solar thermal energy sources.~~

~~— (b) A proposal for the expenditure of not less than 5 percent of the total expenditures related to energy efficiency and conservation programs on energy efficiency and conservation programs directed to low-income customers of the electric utility.~~

~~— (c) A comparison of a diverse set of scenarios of the best combination of sources of supply to meet the demands or the best methods to reduce the demands, which must include at least one scenario of low carbon intensity that includes the deployment of distributed generation.~~

~~— (d) An analysis of the effects of the requirements of NRS 704.766 to 704.777, inclusive, on the reliability of the distribution system of the utility or utilities and the costs to the utility or utilities to provide electric service to all customers. The analysis must include an evaluation of the costs and benefits of addressing issues of reliability through investment in the distribution system.~~

~~— (e) A list of the utility's or utilities' assets described in NRS 704.7238.~~

~~— (f) A surplus asset retirement plan as required by NRS 704.734.~~

~~4. The Commission shall require the utility or utilities to include in the plan a plan for construction or expansion of transmission facilities to serve renewable energy zones and to facilitate the utility or utilities in meeting the portfolio standard established by NRS 704.7821. The plan for the construction or expansion of transmission facilities must identify and evaluate:~~

~~— (a) Transmission network upgrades that could be implemented within renewable energy zones to expedite or facilitate the development of portfolio energy systems within such zones.~~

~~— (b) Options for construction or expansion of transmission facilities meeting the portfolio standard, including, without limitation, transmission facilities which are jointly owned by the utility or utilities.~~

~~5. The Commission shall require the utility or utilities to include in the plan a distributed resources plan. The distributed resources plan must:~~

~~— (a) Evaluate the locational benefits and costs of distributed resources. This evaluation must be based on reductions or increases in local generation capacity needs, avoided or increased investments in distribution infrastructure, safety benefits, reliability benefits and any other savings the distributed resources provide to the electricity grid for this State or costs to customers of the electric utility or utilities.~~

~~— (b) Propose or identify standard tariffs, contracts or other mechanisms for the deployment of cost effective distributed resources that satisfy the objectives for distribution planning.~~

~~— (c) Propose cost effective methods of effectively coordinating existing programs approved by the Commission, incentives and tariffs to maximize the locational benefits and minimize the incremental costs of distributed resources.~~

~~— (d) Identify any additional spending necessary to integrate cost effective distributed resources into distribution planning consistent with the goal of yielding a net benefit to the customers of the electric utility or utilities.~~

~~— (e) Identify barriers to the deployment of distributed resources, including, without limitation, safety standards related to technology or operation of the distribution system in a manner that ensures reliable service.~~

~~6. As used in this section:~~

~~— (a) "Carbon intensity" means the amount of carbon by weight emitted per unit of energy consumed.~~

~~(b) "Distributed generation system" has the meaning ascribed to it in NRS 701.380.~~

~~(c) "Distributed resources" means distributed generation systems, energy efficiency, energy storage, electric vehicles and demand response technologies.~~

~~(d) "Portfolio energy system" means any renewable energy system described in subsection 1 of NRS 704.7804.~~

~~(e) "Renewable energy zones" means specific geographic zones where renewable energy resources are sufficient to develop generation capacity and where transmission constrains the delivery of electricity from those resources to customers.~~ **(Deleted by amendment.)**

Sec. 17. NRS 704.7715 is hereby amended to read as follows:

704.7715 **1.** "Renewable energy" ~~has the meaning ascribed to it in NRS 704.7811.~~ **means:**

- (a) Biomass;
- (b) Geothermal energy;
- (c) Solar energy;
- (d) Waterpower; and
- (e) Wind.

2. The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

3. As used in this section, "waterpower" means power derived from standing, running or falling water which is used for any plant, facility, equipment or system to generate electricity if the generating capacity of the plant, facility, equipment or system is not more than 30 megawatts. Except as otherwise provided in this subsection, the term includes, without limitation, power derived from water that has been pumped from a lower to a higher elevation if the generating capacity of the plant, facility, equipment or system for which the water is used is not more than 30 megawatts. The term does not include power:

(a) Derived from water stored in a reservoir by a dam or similar device, unless:

- (1) The water is used exclusively for irrigation;
- (2) The dam or similar device was in existence on January 1, 2003; and
- (3) The generating capacity of the plant, facility, equipment or system for which the water is used is not more than 30 megawatts;

(b) That requires a new or increased appropriation or diversion of water for its creation; or

(c) That requires the use of any fossil fuel for its creation, unless:

(1) The primary purpose of the use of the fossil fuel is not the creation of the power; and

(2) The generating capacity of the plant, facility, equipment or system for which the water is used is not more than 30 megawatts.

Sec. 18. NRS 704.7801 is hereby amended to read as follows:

704.7801 As used in NRS 704.7801 to 704.7828, inclusive, **and sections 8, 9 and 10 of this act**, unless the context otherwise requires, the words and terms defined in NRS 704.7802 to 704.7819, inclusive, have the meanings ascribed to them in those sections.

Sec. 19. NRS 704.7804 is hereby amended to read as follows:

704.7804 "Portfolio energy system or efficiency measure" means:

1. Any renewable energy system:

(a) Placed into operation before July 1, 1997, if a provider of electric service used electricity generated or acquired from the renewable energy system to satisfy its portfolio standard before July 1, 2009; ~~for~~

(b) *Placed into operation before July 1, 1997, that uses waterpower from a plant, facility, equipment or system to generate electricity, if the waterpower is acquired by the provider of electric service from another party pursuant to a contract for a term of not less than 10 years ~~[-or-]~~ and the provider of electric service began acquiring the waterpower pursuant to the contract before the effective date of this act; or*

(c) Placed into operation on or after July 1, 1997. ~~[-or-]~~

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

Sec. 20. NRS 704.7808 is hereby amended to read as follows:

704.7808 1. "Provider of electric service" and "provider" mean any person or entity that is in the business of selling electricity to retail customers for consumption in this State, regardless of whether the person or entity is otherwise subject to regulation by the Commission.

2. The term includes, without limitation, a provider of new electric resources that is selling electricity to an eligible customer for consumption in this State pursuant to the provisions of chapter 704B of NRS.

3. The term does not include:

(a) ~~[This State or an agency or instrumentality of this State.~~

~~—(b) A rural electric cooperative established pursuant to chapter 81 of NRS.~~

~~—(c) A general improvement district established pursuant to chapter 318 of NRS.~~

~~—(d) A utility established pursuant to chapter 709 or 710 of NRS.~~

~~—(e) A cooperative association, nonprofit corporation, nonprofit association or provider of electric service which is declared to be a public utility pursuant to NRS 704.673 and which provides service only to its members.~~

~~—(f) A landlord of a manufactured home park or mobile home park or owner of a company town who is subject to any of the provisions of NRS 704.905 to 704.960, inclusive.~~

~~—(g) (b) A landlord who pays for electricity that is delivered through a master meter and who distributes or resells the electricity to one or more tenants for consumption in this State.~~

Sec. 21. NRS 704.7811 is hereby amended to read as follows:

704.7811 1. "Renewable energy" means:

(a) Biomass;

(b) Geothermal energy;

(c) Solar energy;

(d) Waterpower; and

(e) Wind.

2. The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

3. As used in this section, "waterpower" means power derived from standing, running or falling water which is used for any plant, facility, equipment or system to generate electricity. ~~[if the generating capacity of the plant, facility, equipment or system is not more than 30 megawatts.]~~ Except as otherwise provided in this subsection, the term includes, without limitation, power derived from water that has been pumped from a lower to a higher elevation if the generating capacity of the plant, facility, equipment or system for which the water is used is not more than 30 megawatts ~~[-]~~, *and the plant, facility, equipment or system ~~used for both the electricity generation and the water pumping were~~ was in existence ~~on~~ and used to derive power from pumped water before January 1, 2019.* The term does not include power:

(a) ~~[Derived from water stored in a reservoir by a dam or similar device, unless:~~

~~—(1) The water is used exclusively for irrigation;~~

~~(2) The dam or similar device was in existence on January 1, 2003; and~~
~~(3) The generating capacity of the plant, facility, equipment or system for which the water is used is not more than 30 megawatts;~~
~~(b)} That requires a new or increased appropriation or diversion of water for its creation; ~~for~~~~
~~(c)} (b) That requires the use of any fossil fuel for its creation, unless ~~it~~~~
~~(1) The} the primary purpose of the use of the fossil fuel is not the creation of the power ~~it~~; and~~
~~(2) The generating capacity of the plant, facility, equipment or system for which the water is used is not more than 30 megawatts.} ; or~~
~~(c) That was produced before the effective date of this act from a renewable energy system with a generating capacity of more than 30 megawatts placed into operation before July 1, 1997.~~

Sec. 21.5. NRS 704.7818 is hereby amended to read as follows:

704.7818 1. "Retail customer" means ~~that~~ :

~~(a) An~~ end-use customer that purchases electricity for consumption in this state ~~it~~ ; or
(b) An end-use member that purchases electricity for consumption in this state from a cooperative association, nonprofit corporation, nonprofit association or provider of electric service which is declared to be a public utility pursuant to NRS 704.675 and which provides service only to its members.

2. The term includes, without limitation:

(a) This state, a political subdivision of this state or an agency or instrumentality of this state or political subdivision of this state when it is an end-use customer that purchases electricity for consumption in this state, including, without limitation, when it is an eligible customer that purchases electricity for consumption in this state from a provider of new electric resources pursuant to the provisions of chapter 704B of NRS.

(b) A residential, commercial or industrial end-use customer that purchases electricity for consumption in this state, including, without limitation, an eligible customer that purchases electricity for consumption in this state from a provider of new electric resources pursuant to the provisions of chapter 704B of NRS.

(c) A landlord of a manufactured home park or mobile home park or owner of a company town who is subject to any of the provisions of NRS 704.905 to 704.960, inclusive.

(d) A landlord who pays for electricity that is delivered through a master meter and who distributes or resells the electricity to one or more tenants for consumption in this state.

Sec. 22. 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} Except as otherwise provided in subsections ~~5, 6, 8 and 9,~~ 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 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 sold by the provider to its retail customers in this State during that calendar year.

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

(h) *For calendar year 2021, not less than 24 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.*

(i) *For calendar years 2022 and 2023, not less than 29 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.*

(j) *For calendar years 2024 through 2026, inclusive, not less than 34 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.*

(k) *For calendar years 2027 through 2029, inclusive, not less than 42 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.*

(l) For calendar year ~~[2025]~~ 2030 and for each calendar year thereafter, not less than ~~[25]~~ 50 percent of the total amount of electricity 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:~~

~~—— (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:

(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 2015 to 2019, inclusive, not more than 20 percent of that amount may be based on energy efficiency measures;

(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.

~~[(e)]~~ (b) 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. ~~For calendar year 2022 and each calendar year thereafter, a provider shall be deemed to have complied with its portfolio standard during that calendar year if the total amount of electricity generated, acquired or saved from portfolio energy systems or efficiency measures during that calendar year and the immediately preceding 2 calendar years is a percentage of the total amount of electricity sold by the provider to its retail customers in this State during those years that is not less than the percentage required for that calendar year pursuant to subsection 1.~~

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~~ 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 ~~if the Commission determines that:~~

(a) *For the 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, after the provider has made reasonable efforts to secure such contracts; or*

(b) *The provider is unable to obtain a sufficient supply of electricity to comply with the portfolio standard because of a delay in the completion of the construction of a renewable energy system, or the underperformance of an existing renewable energy system, that is under the control of a person or entity other than the provider and that was intended to provide such electricity.*

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.] For the purposes of subsection 1, for calendar year 2019 and for each calendar year thereafter, the total amount of electricity sold by a provider to its retail customers in this State during a calendar year does not include the amount of electricity sold by the provider as part of a program of optional pricing authorized by the Commission pursuant to ~~NRS 704.738,~~ which the provider either transfers portfolio energy credits to the customer or retires portfolio energy credits above the renewable energy portfolio standard on behalf of the customer.~~

9. For the purposes of subsection 1, for calendar year 2019 and for each calendar year thereafter, ~~unless the provider makes the election authorized by subsection 10,~~ the total amount of electricity sold by the following providers to their retail customers in this State during a calendar year does not include the first 1,000,000 megawatt-hours of electricity sold by the provider to such customers during that calendar year:

(a) A rural electric cooperative established pursuant to chapter 81 of NRS that is in existence on the effective date of this act.

(b) A general improvement district established pursuant to chapter 318 of NRS that is in existence on the effective date of this act. ~~It~~

(c) A utility established pursuant to chapter 244, 268, 709 or 710 of NRS that is in existence on the effective date of this act.

(d) A cooperative association, nonprofit corporation, nonprofit association or provider of electric service which is declared to be a public utility pursuant to NRS 704.673, which provides service only to its members and which is in existence and providing retail electric service on the effective date of this act.

Such providers do not earn energy portfolio credits under the system of energy portfolio credits established by the Commission pursuant to subsection 4 for electricity generated or acquired by the provider from renewable energy systems to make the first 1,000,000 megawatt-hours of sales to retail customers within this State within a calendar year. ~~It, unless the provider makes the election provided by subsection 10.] The provisions of this subsection do not apply to any successor in interest of such a provider.~~

10. ~~A provider listed in subsection 9 may elect to have the Commission establish a portfolio standard for the provider which applies to the total amount of electricity sold by the provider to its retail customers in this State during the calendar year, including the first 1,000,000 megawatt hours of sales to such customers. To make the election described by this subsection, the provider shall provide written notification of the election to the Commission on or before September 30 of the year immediately preceding the first calendar year for which the provider is requesting that the portfolio standard apply to the total amount of electricity sold by the provider to its retail customers in this State during that calendar year. Within 90 days after receiving such a notification, the Commission~~

~~shall issue an order establishing a portfolio standard for the provider. The portfolio standard established pursuant to this subsection applies to the provider for each calendar year thereafter.~~

~~11.] A provider listed in subsection 9 [who has not made the election described in subsection 10] shall, during any calendar year in which the total amount of electricity sold by the provider to its retail customers in this State during that calendar year is less than 1,000,000 megawatt-hours, submit to the Commission, after the end of the calendar year and within the time prescribed by the Commission, a report of the total amount of electricity sold to its retail customers in this State for that calendar year. The providers described in paragraphs (a) and (d) of subsection 9 shall submit the report required by this subsection to the Commission as part of the annual report filed by such a provider as required by NRS 703.191.~~

~~[9-12.]~~ 11. 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. 23. NRS 704.78213 is hereby amended to read as follows:

704.78213 1. If the Commission issues an order approving an application that is filed pursuant to NRS 704B.310 or a request that is filed pursuant to NRS 704B.325 regarding a provider of new electric resources and an eligible customer, the Commission must establish in the order a portfolio standard applicable to the electricity sold by the provider of new electric resources to the eligible customer in accordance with the order. The portfolio standard must require the provider of new electric resources to generate, acquire or save electricity from portfolio energy systems or efficiency measures in the amounts described in the portfolio standard set forth in NRS 704.7821 . ~~[which is effective on the date on which the order approving the application or request is approved.]~~

2. ~~[0.]~~ Except as otherwise provided in this subsection, of the total amount of electricity that a provider of new electric resources 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. The provisions of this subsection apply to an order of the Commission approving an application that is filed pursuant to NRS 704B.310 or a request filed pursuant to NRS 704B.325 regarding a provider of new electric resources and an eligible customer only:

(a) If the order was issued by the Commission before January 1, 2019; and

(b) For calendar years before 2025.

3. If, for the benefit of one or more eligible customers, the eligible customer of a provider of new electric resources 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 of new electric resources generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

4. ~~[3.]~~ As used in this section:

(a) "Eligible customer" has the meaning ascribed to it in NRS 704B.080.

(b) "Provider of new electric resources" has the meaning ascribed to it in NRS 704B.130.

Sec. 24. NRS 704.7825 is hereby amended to read as follows:

704.7825 1. ~~Each~~ *Except as otherwise provided in subsection 6, each* provider of electric service shall submit to the Commission an annual report that provides information relating to the actions taken by the provider to comply with its portfolio standard.

2. Each provider shall submit the annual report to the Commission after the end of each calendar year and within the time prescribed by the Commission. The report must be submitted in a format approved by the Commission.

3. The Commission may adopt regulations that require providers to submit to the Commission additional reports during each calendar year.

4. Each annual report and each additional report must include clear and concise information that sets forth:

(a) The amount of electricity which the provider generated, acquired or saved from portfolio energy systems or efficiency measures during the reporting period and, if applicable, the amount of portfolio energy credits that the provider acquired, sold or traded during the reporting period to comply with its portfolio standard;

(b) The capacity of each renewable energy system owned, operated or controlled by the provider, the total amount of electricity generated by each such system during the reporting period and the percentage of that total amount which was generated directly from renewable energy;

(c) Whether, during the reporting period, the provider began construction on, acquired or placed into operation any renewable energy system and, if so, the date of any such event;

(d) Whether, during the reporting period, the provider participated in the acquisition or installation of any energy efficiency measures and, if so, the date of any such event; and

(e) Any other information that the Commission by regulation may deem relevant.

5. Based on the reports submitted by providers pursuant to this section, the Commission shall compile information that sets forth whether any provider has used energy efficiency measures to comply with its portfolio standard and, if so, the type of energy efficiency measures used and the amount of energy savings attributable to each such energy efficiency measure. The Commission shall report such information to:

(a) The Legislature, not later than the first day of each regular session; and

(b) The Legislative Commission, if requested by the Chair of the Commission.

6. The provisions of this section do not apply to:

~~(a) A provider of electric service that is an agency or instrumentality of this State; or~~ *subject to NRS 704.787; or*

~~(b) A provider of electric service that is listed in subsection 9 of NRS 704.7821 who has not made the election described in subsection 10 of that section;~~ *during any calendar year in which the total amount of electricity sold by the provider to its retail customers in this State during that calendar year is less than 1,000,000 megawatt-hours.*

Sec. 24.5. 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, ~~11~~, *and sections 8, 9 and 10 of this act.* 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:

(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;

(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 provider from the requirements of its portfolio standard pursuant to NRS 704.7821 or 704.78213, the Commission ~~+~~

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

~~(b) May~~

4. If the Commission has not exempted a provider from the requirements of its portfolio standard pursuant to NRS 704.7821 or 704.78213 and the provider does not comply with its portfolio standard:

(a) During any calendar year after 2018 but before 2030, and did not comply with its portfolio standard for the 2 immediately preceding calendar years; or

(b) During calendar year 2030 or any subsequent calendar year,

The Commission may impose an administrative fine against the provider or take other administrative action against the provider, or do both.

5. Except as otherwise provided in ~~subsection 5~~ subsections 4 and 6, the Commission may impose an administrative fine against a provider based upon:

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

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

~~5~~ 6. If a provider sells any portfolio energy credits pursuant to paragraph (b) or (c) of subsection 2 in any calendar year in which the Commission determines that the provider did not comply with its portfolio standard, the Commission shall not make any adjustment to the provider's expenses or revenues and shall not impose on the provider any administrative fine authorized by this section for that calendar year if:

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

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

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

~~(6)~~ 7. In the aggregate, the administrative fines imposed against a provider for all violations of its portfolio standard for a single calendar year must not exceed the amount which is necessary and reasonable to ensure that the provider complies with its portfolio standard, as determined by the Commission.

~~(7)~~ 8. If the Commission imposes an administrative fine against a utility provider:

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

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

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

~~(8)~~ 9. All administrative fines imposed and collected pursuant to this section must be deposited in the State General Fund.

Sec. 25. NRS 704.860 is hereby amended to read as follows:

704.860 "Utility facility" means:

1. Electric generating plants and their associated facilities, except electric generating plants and their associated facilities which use or will use renewable energy, as defined in NRS ~~(704.7811,)~~ 704.7715, as their primary source of energy to generate electricity and which have or will have a nameplate capacity of not more than 70 megawatts, including, without limitation, a net metering system, as defined in NRS 704.771. As used in this subsection, "associated facilities" includes, without limitation, any facilities for the storage, transmission or treatment of water, including, without limitation, facilities to supply water or for the treatment or disposal of wastewater, which support or service an electric generating plant.

2. Electric transmission lines and transmission substations that:

(a) Are designed to operate at 200 kilovolts or more;

(b) Are not required by local ordinance to be placed underground; and

(c) Are constructed outside any incorporated city.

3. Gas transmission lines, storage plants, compressor stations and their associated facilities when constructed outside any incorporated city.

4. Water storage, transmission and treatment facilities, other than facilities for the storage, transmission or treatment of water from mining operations.

5. Sewer transmission and treatment facilities.

Sec. 26. NRS 704.890 is hereby amended to read as follows:

704.890 1. Except as otherwise provided in subsection 3, the Commission may not grant a permit for the construction, operation and maintenance of a utility facility, either as proposed or as modified by the Commission, to a person unless it finds and determines:

(a) The nature of the probable effect on the environment;

(b) If the utility facility emits greenhouse gases and does not use renewable energy as its primary source of energy to generate electricity, the extent to which the facility is needed to ensure reliable utility service to customers in this State;

(c) That the need for the facility balances any adverse effect on the environment;

(d) That the facility represents the minimum adverse effect on the environment, considering the state of available technology and the nature and economics of the various alternatives;

(e) That the location of the facility as proposed conforms to applicable state and local laws and regulations issued thereunder and the applicant has obtained, or is in the process of obtaining, all other permits, licenses, registrations and approvals required by federal, state and local statutes, regulations and ordinances;

(f) That the surplus asset retirement plan filed pursuant to NRS 704.870:

(1) Complies with federal, state and local laws;

(2) Provides for the remediation and reuse of the facility within a reasonable period; and

(3) Is able to be reasonably completed under the funding plan contained in the application; and

(g) That the facility will serve the public interest.

2. If the Commission determines that the location of all or a part of the proposed facility should be modified, it may condition its permit upon such a modification. If the applicant has not obtained all the other permits, licenses, registrations and approvals required by federal, state and local statutes, regulations and ordinances as of the date on which the Commission decides to issue a permit, the Commission shall condition its permit upon the applicant obtaining those permits and approvals.

3. The requirements set forth in paragraph (g) of subsection 1 do not apply to any application for a permit which is filed by a state government or political subdivision thereof.

4. As used in this section, "renewable energy" has the meaning ascribed to it in NRS ~~704.7811~~ 704.7715.

Sec. 27. NRS 271.197 is hereby amended to read as follows:

271.197 "Renewable energy" has the meaning ascribed to it in NRS ~~704.7811~~ 704.7715.

Sec. 28. Notwithstanding the provisions of any other law or any ruling or order issued by or portfolio standard established by the Public Utilities Commission of Nevada to the contrary, for any portfolio standard established by the Commission pursuant to the provisions of subsection 1 of NRS 704.78213, as that section existed on or after July 1, 2012, and before the effective date of this act, the Commission shall, for calendar year 2020 and for each calendar year thereafter, revise the portfolio standard to require the provider of new electric resources as defined in NRS 704B.130 to generate, acquire or save electricity from portfolio energy systems or energy efficiency measures in the amounts described in the portfolio standard set forth in NRS 704.7821, as amended by section 22 of this act.

Sec. 29. 1. This act becomes effective upon passage and approval.

2. Section 3 of this act expires by limitation on December 31, 2025.