

Amendment No. 1070

Senate Amendment to Senate Bill No. 547	(BDR 58-913)
<b>Proposed by:</b> Senate Committee on Growth and Infrastructure	
<b>Amendment Box:</b> Replaces Amendment No. 1047.	
<b>Amends:</b> Summary: No Title: No 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.





SENATE BILL NO. 547—SENATORS BROOKS, CANNIZZARO, SPEARMAN, CANCELA, PARKS; DENIS, DONDERO LOOP, OHRENSCHALL, RATTI, WASHINGTON AND WOODHOUSE

MAY 16, 2019

JOINT SPONSORS: ASSEMBLYMEN FRIERSON  
AND MONROE-MORENO

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions relating to providers of new electric resources. (BDR 58-913)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to energy; excluding from regulation as a public utility certain plants or equipment used by a data center; revising provisions governing the applicability of certain assessments imposed by the Public Utilities Commission of Nevada; revising the information required to be included in the integrated resource plan filed by an electric utility with the Commission; revising the criteria to be eligible to apply to the Commission to purchase energy, capacity or ancillary services from a provider of new electric resources; revising the requirements a provider of new electric resources must satisfy to be eligible to sell energy, capacity or ancillary services to eligible customers; revising the requirements an eligible customer must satisfy to be authorized to purchase energy, capacity or ancillary services from a provider of new electric resources; revising the terms and conditions for the purchase of energy, capacity or ancillary services by eligible customers who have been approved to make such purchases from a provider of new electric resources; repealing provisions governing certain agreements relating to generation assets of an electric utility; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Section 2** of this bill excludes from regulation as a public utility certain plants or equipment used by a data center but only with respect to operations of the data center which consist of providing electric service.

Existing law authorizes certain customers of an electric utility to apply to the Public Utilities Commission of Nevada for approval to purchase energy, capacity and ancillary services from a provider of new electric resources. If the Commission approves such an

application, the Commission is required to order such terms, conditions and payments as the Commission deems necessary and appropriate to ensure that the transaction will not be contrary to the public interest and the eligible customer is authorized to begin purchasing energy, capacity and ancillary services from the provider of new electric resources in accordance with the order of the Commission. (NRS 704B.310)

Existing law requires the Commission to levy and collect an annual mill tax on public utilities that are subject to the jurisdiction of the Commission. (NRS 704.033) Under existing law, if the Commission authorizes a customer of an electric utility to purchase energy, capacity and ancillary services from a provider of new electric resources, the Commission is required to order the customer to pay its share of the annual mill tax levied by the Commission and to pay any other tax, fee or assessment that would be due to a governmental entity had the customer continued to purchase energy, capacity or ancillary services from the electric utility. (NRS 704B.360) **Sections 3 and 21** of this bill revise this requirement by removing the requirement for an order of the Commission and, instead, imposing the requirement to pay the annual mill tax and any other taxes, fees or assessments on the customer or the provider of new electric resources, as applicable. ~~[Section 21 further requires the customer or the provider of new electric resources, as applicable, to pay any costs, fees or rates which are imposed by the electric utility, associated with the implementation of certain public policies and determined by the Commission to be appropriate for collection from customers who purchase energy, capacity or ancillary services from a provider of new electric resources.]~~

Existing law requires each electric utility to submit to the Commission every 3 years an integrated resource plan to increase the utility's supply of electricity or decrease the demands made on its system by its customers. (NRS 704.741) **Section 5** of this bill requires the integrated resource plan to include a proposal for annual limits on the energy and capacity that certain eligible customers are authorized to purchase from providers of new electric resources through transactions approved by the Commission ~~[ ]~~ pursuant to an application submitted on or after May 16, 2019. **Section 5** further requires the proposal to include certain information, including, without limitation, impact fees applicable to each megawatt or megawatt hour to account for certain costs. **Section 6** of this bill requires the Commission, in considering whether to approve or modify the annual limits, to consider whether the proposed limits promote safe, economic, efficient and reliable electric service, align an economically viable utility model with state public policy goals and encourage the development and use of renewable energy resources.

**Section 16** of this bill prohibits a provider of new electric resources from selling energy, capacity or ancillary services to any person or governmental entity in this State unless the provider holds a license to do so issued by the Commission. **Section 9** of this bill establishes the requirements a provider of new electric resources is required to satisfy to qualify for a license and authorizes the Commission to adopt regulations requiring a provider of new electric resources to provide certain information. **Section 26** of this bill authorizes a provider of new electric resources who sold energy, capacity or ancillary services to a customer before the effective date of this bill to continue to sell energy, capacity or ancillary services to that customer without obtaining a license if the provider submits an application for a license to the Commission not later than 30 days after a date established by the Commission by regulation and the Commission issues the license. **Sections 8 and 11** of this bill make conforming changes.

**Section 10** of this bill: (1) requires the Commission to adopt regulations to establish a procedure by which a customer who has been approved to purchase energy, capacity or ancillary services from a provider of new electric resources may apply to the Commission to return to purchasing bundled electric service from an electric utility; (2) authorizes the Commission to establish such terms and conditions on such a return as the Commission deems necessary and appropriate to ~~[protect the existing]~~ prevent harm to customers of the electric utility; ~~[and]~~ (3) authorizes the Commission to limit the number of times a customer is authorized to be approved to purchase energy, capacity or ancillary services from a provider of new electric resources ~~[ ]~~ ; and (4) authorizes the Commission to establish limitations on the use of certain tariffs approved by the Commission.

**Section 12** of this bill provides that a nongovernmental commercial or industrial end-use customer or a governmental entity that was not a customer of an electric utility at any time before the effective date of this bill is eligible to apply to the Commission for approval to

purchase energy, capacity or ancillary services from a provider of new electric resources ~~only if the average annual load of the customer will be 1 megawatt or more and the customer is expected to commence purchasing energy, capacity or ancillary services from a provider of new electric resources within 2 years after filing the application with the Commission.~~ if certain requirements are met, including a requirement that the average annual load of such a customer will be 1 megawatt or more. Section 25 of this bill provides that this provision does not apply to a person who, before the effective date of this bill, was approved to purchase energy, capacity and ancillary services from a provider of new electric resources.

Under existing law, a provider of new electric resources is qualified to sell energy, capacity or ancillary services to an eligible customer if, among other criteria, the provider makes the energy, capacity or ancillary services available from certain generation assets. (NRS 704B.110, 704B.130) **Section 13** of this bill authorizes a provider of new electric resources to make energy, capacity and ancillary services available by market purchases made through the provider.

Existing law provides that the provisions of existing law governing the purchase of energy, capacity or ancillary services from a provider of new electric resources do not affect any rights or obligations arising under certain contracts which were in existence on July 17, 2001. (NRS 704B.170) **Section 14** of this bill removes the date from this provision and, thus, provides that the existing law governing the purchase of energy, capacity or ancillary services from a provider of new electric resources does not affect any contract.

Existing law requires the Public Utilities Commission of Nevada to submit to the Legislative Commission, not later than 2 business days after receiving a request from the Legislative Commission, a written report summarizing certain information related to transactions between providers of new electric resources and customers approved by the Commission to purchase energy, capacity or ancillary services from such providers. (NRS 704B.210) **Section 15** of this bill requires this report to include only the public information that the customer included in the application filed with the Commission rather than all information that the customer included in the application.

**Section 17** of this bill revises the procedure to apply for and obtain the approval of the Commission to purchase energy, capacity and ancillary services from a provider of new electric resources by: (1) authorizing an eligible customer to file an application with the Commission only between January 2 and February 1 of each calendar year; (2) requiring the application to be filed with the Commission not later than 280 days, rather than not later than 180 days, before the date on which the customer intends to begin purchasing energy, capacity or ancillary services from a provider of new electric resources; (3) requiring the information included with the application to be specific information about the customer, the proposed provider and the terms and conditions of the proposed transaction; (4) requiring the specific information included with the application to include information identifying transmission requirements and the extent to which transmission import capacity is needed; (5) prohibiting the Commission from approving the application unless the Commission determines the application is in the public interest rather than requiring approval of the application unless the Commission finds the application contrary to the public interest; (6) revising the factors the Commission is required to consider in determining whether the proposed transaction is in the public interest; (7) revising the terms and conditions which the Commission is required to order if it approves the application; and (8) prohibiting the approval of an application if the approval of the application would cause the energy and capacity that certain eligible customers are authorized to purchase from providers of new electric resources to exceed the annual limit included in the resource plan of the electric utility that has been accepted by the Commission.

Existing law authorizes a customer that is purchasing energy, capacity or ancillary services from a provider of new electric resources to purchase energy, capacity or ancillary services from an alternative provider without obtaining the approval of the Commission if the terms and conditions of that transaction, other than the price of the energy, capacity or ancillary services, conform to the transaction originally approved by the Commission. (NRS 704B.325) **Section 18** of this bill prohibits the purchase of energy, capacity or ancillary services from an alternative provider unless the alternative provider is licensed as a provider of new electric resources by the Commission pursuant to **section 9**.

~~[Existing law authorizes a customer that is purchasing energy, capacity or ancillary services from a provider of new electric resources to replace some or all of that energy,~~

capacity or ancillary services with energy, capacity or ancillary services purchased from an electric utility pursuant to a tariff approved by the Commission. (NRS 704B.330) Section 19 of this bill provides that if the customer receives such service from an electric utility for more than 30 days in a calendar year, the customer is no longer authorized to purchase energy, capacity or ancillary services from a provider of new electric resources and is required to reapply for authorization to purchase energy, capacity or ancillary services from such a provider if the customer wishes to make such purchases.]

Existing law prohibits a provider of new electric resources from selling energy, capacity or ancillary services to a customer unless the customer has a time-of-use meter installed at the point of delivery of energy to the customer. Under existing law, an electric utility is required to install a time-of-use meter at each point of delivery of energy to the customer if the customer does not have a time-of-use meter at that point of delivery. (NRS 704B.340) **Section 20** of this bill requires the Commission to determine the date by which the electric utility is required to ensure that metering equipment is operational for each customer who has been approved by the Commission to purchase energy, capacity or ancillary services from a provider of new electric resources.

Existing law requires each utility to: (1) conduct a vulnerability assessment in accordance with the requirements of certain federal and regional agencies; (2) prepare and maintain an emergency response plan in accordance with the requirements of certain federal and regional agencies; and (3) at least once each year, review its vulnerability assessment and emergency response plan and submit to the Division of Emergency Management of the Department of Public Safety the results of that review and any additions or modifications to its emergency response plan. (NRS 239C.270) **Section 23** of this bill imposes these requirements on providers of new electric resources.

**Section 24** of this bill provides that any application to purchase energy, capacity or ancillary services from a provider of new electric resources that was submitted to the Commission before the passage and approval of this bill is deemed to be denied unless the [Commission issues a final order approving the] application **was filed** before **[July 1, 2019.] May 16, 2019. Section 24 further provides that the provisions of existing law governing the consideration and disposition of an application apply to an application filed before May 16, 2019.**

**Sections 25 and 26 of this bill enact provisions governing eligible customers who were approved by the Commissions to purchase energy, capacity or ancillary services before the effective date of this bill.**

---

---

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

**Section 1.** NRS 703.330 is hereby amended to read as follows:

703.330 1. A complete record must be kept of all hearings before the Commission. All testimony at such hearings must be taken down by the stenographer appointed by the Commission or, under the direction of any competent person appointed by the Commission, must be reported by sound recording equipment in the manner authorized for reporting testimony in district courts. The testimony reported by a stenographer must be transcribed, and the transcript filed with the record in the matter. The Commission may by regulation provide for the transcription or safekeeping of sound recordings. The costs of recording and transcribing testimony at any hearing, except those hearings ordered pursuant to NRS 703.310, must be paid by the applicant. If a complaint is made pursuant to NRS 703.310 by a customer or by a political subdivision of the State or municipal organization, the complainant is not liable for any costs. Otherwise, if there are several applicants or parties to any hearing, the Commission may apportion the costs among them in its discretion.

2. A copy of the proceedings and testimony must be furnished to any party, on payment of a reasonable amount to be fixed by the Commission, and the amount must be the same for all parties.

3. The provisions of this section do not prohibit the Commission from:

(a) Restricting access to the records and transcripts of a hearing pursuant to paragraph (a) of subsection 3 of NRS 703.196.

(b) Protecting the confidentiality of information pursuant to NRS 704B.310 ~~704B.320~~ or 704B.325.

**Sec. 2.** NRS 704.021 is hereby amended to read as follows:

704.021 "Public utility" or "utility" does not include:

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

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

(a) They serve 25 persons or less; and

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

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

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

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

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

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

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

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

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

(a) Located on the premises of another person;

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

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

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

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

5     12. *Any plant or equipment that is used by a data center to produce, deliver*  
6     *or furnish electricity at agreed-upon prices for or to persons on the premises of*  
7     *the data center for the sole purpose of those persons storing, processing or*  
8     *distributing data, but only with regard to those operations which consist of*  
9     *providing electric service. As used in this subsection, “data center” has the*  
10    *meaning ascribed to it in NRS 360.754.*

11    **Sec. 3.** NRS 704.033 is hereby amended to read as follows:

12    704.033 1. Except as otherwise provided in subsection 6, the Commission  
13    shall levy and collect an annual assessment from all public utilities, *providers of*  
14    *new electric resources*, providers of discretionary natural gas service and  
15    alternative sellers subject to the jurisdiction of the Commission.

16    2. Except as otherwise provided in subsections 3 and 4, the annual assessment  
17    must be:

18    (a) For the use of the Commission, not more than 3.50 mills; and

19    (b) For the use of the Consumer’s Advocate, not more than 0.75 mills,

20    ➤ on each dollar of gross operating revenue derived from the intrastate operations  
21    of such utilities, *providers of new electric resources*, providers of discretionary  
22    natural gas service and alternative sellers in the State of Nevada. The total annual  
23    assessment must be not more than 4.25 mills.

24    3. The levy for the use of the Consumer’s Advocate must not be assessed  
25    against railroads.

26    4. The minimum assessment in any 1 year must be \$100.

27    5. The gross operating revenue of the utilities must be determined for the  
28    preceding calendar year. In the case of:

29    (a) Telecommunication providers, except as provided in paragraph (c), the  
30    revenue shall be deemed to be all intrastate revenues.

31    (b) Railroads, the revenue shall be deemed to be the revenue received only  
32    from freight and passenger intrastate movements.

33    (c) All public utilities, *providers of new electric resources*, providers of  
34    discretionary natural gas service and alternative sellers, the revenue does not  
35    include the proceeds of any commodity, energy or service furnished to another  
36    public utility, *provider of new electric resources*, provider of discretionary natural  
37    gas service or alternative seller for resale.

38    6. Providers of commercial mobile radio service are not subject to the annual  
39    assessment and, in lieu thereof, shall pay to the Commission an annual licensing fee  
40    of \$200.

41    7. *“Provider of new electric resources” has the meaning ascribed to it in*  
42    *NRS 704B.130.*

43    **Sec. 4.** NRS 704.035 is hereby amended to read as follows:

44    704.035 1. On or before June 15 of each year, the Commission shall mail  
45    revenue report forms to all public utilities, *providers of new electric resources*,  
46    providers of discretionary natural gas service and alternative sellers under its  
47    jurisdiction, to the address of those utilities, *providers of new electric resources*,  
48    providers of discretionary natural gas service and alternative sellers on file with the  
49    Commission. The revenue report form serves as notice of the Commission’s intent  
50    to assess such entities, but failure to notify any such entity does not invalidate the  
51    assessment with respect thereto.

52    2. Each public utility, *provider of new electric resources*, provider of  
53    discretionary natural gas service and alternative seller subject to the provisions of



1 NRS 704.033 shall complete the revenue report referred to in subsection 1, compute  
2 the assessment and return the completed revenue report to the Commission  
3 accompanied by payment of the assessment and any fee due, pursuant to the  
4 provisions of subsection 5.

5 3. The assessment is due on July 1 of each year, but may, at the option of the  
6 public utility, *provider of new electric resources*, provider of discretionary natural  
7 gas service and alternative seller, be paid quarterly on July 1, October 1, January 1  
8 and April 1.

9 4. The assessment computed by the public utility, *provider of new electric*  
10 *resources*, provider of discretionary natural gas service or alternative seller is  
11 subject to review and audit by the Commission, and the amount of the assessment  
12 may be adjusted by the Commission as a result of the audit and review.

13 5. Any public utility, *provider of new electric resources*, provider of  
14 discretionary natural gas service or alternative seller failing to pay the assessment  
15 provided for in NRS 704.033 on or before August 1, or if paying quarterly, on or  
16 before August 1, October 1, January 1 or April 1, shall pay, in addition to such  
17 assessment, a fee of 1 percent of the total unpaid balance for each month or portion  
18 thereof that the assessment is delinquent, or \$10, whichever is greater, but no fee  
19 may exceed \$1,000 for each delinquent payment.

20 6. When a public utility, *provider of new electric resources*, provider of  
21 discretionary natural gas service or alternative seller sells, transfers or conveys  
22 substantially all of its assets or, if applicable, its certificate of public convenience  
23 and necessity ~~§~~ *or license*, the Commission shall determine, levy and collect the  
24 accrued assessment for the current year not later than 30 days after the sale, transfer  
25 or conveyance, unless the transferee has assumed liability for the assessment. For  
26 purposes of this subsection, the jurisdiction of the Commission over the selling,  
27 transferring or conveying public utility, *provider of new electric resources*,  
28 provider of discretionary natural gas service or alternative seller continues until it  
29 has paid the assessment.

30 7. The Commission may bring an appropriate action in its own name for the  
31 collection of any assessment and fee which is not paid as provided in this section.

32 8. The Commission shall, upon collection, transfer to the Account for the  
33 Consumer's Advocate that portion of the assessments collected which belongs to  
34 the Consumer's Advocate.

35 9. *"Provider of new electric resources" has the meaning ascribed to it in*  
36 *NRS 704B.130.*

37 **Sec. 5.** NRS 704.741 is hereby amended to read as follows:

38 704.741 1. A utility which supplies electricity in this State shall, on or  
39 before June 1 of every third year, in the manner specified by the Commission,  
40 submit a plan to increase its supply of electricity or decrease the demands made on  
41 its system by its customers to the Commission. Two or more utilities that are  
42 affiliated through common ownership and that have an interconnected system for  
43 the transmission of electricity shall submit a joint plan.

44 2. The Commission shall, by regulation:

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

47 (1) Forecast the future demands ~~§~~, *except that a forecast of the future*  
48 *retail electric demands of the utility or utilities must not include the amount of*  
49 *energy and capacity proposed pursuant to subsection 6 as annual limits on the*  
50 *total amount of energy and capacity that eligible customers may be authorized to*  
51 *purchase from providers of new electric resources through transactions approved*  
52 *by the Commission pursuant to an application submitted pursuant to NRS*  
53 *704B.310 ~~§~~ on or after May 16, 2019; 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 704.7338.

(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.

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. *The Commission shall require the utility or utilities to include in the plan a proposal for annual limits on the total amount of energy and capacity that eligible customers may be authorized to purchase from providers of new electric resources through transactions approved by the Commission pursuant to an application submitted pursuant to NRS 704B.310 ~~on~~ on or after May 16, 2019. In developing the proposal and the forecasts in the plan, the utility or utilities must*

1 *use a sensitivity analysis that, at a minimum, addresses load growth, import*  
2 *capacity, system constraints and the effect of eligible customers purchasing less*  
3 *energy and capacity than authorized by the proposed annual limit. The proposal*  
4 *in the plan must include, without limitation:*

- 5 (a) *A forecast of the load growth of the utility or utilities;*  
6 (b) *The number of eligible customers that are currently being served by or*  
7 *anticipated to be served by the utility or utilities;*  
8 (c) *Information concerning the infrastructure of the utility or utilities that is*  
9 *available to accommodate market-based new electric resources;*  
10 (d) *Proposals to ensure the stability of rates and the availability and*  
11 *reliability of electric service; and*  
12 (e) *For each year of the plan, impact fees applicable to each megawatt or*  
13 *each megawatt hour to account for costs reflected in the base tariff general rate*  
14 *and base tariff energy rate paid by end-use customers of the electric utility.*

15 7. The annual limits proposed pursuant to subsection 6 shall not apply to  
16 energy and capacity sales to an eligible customer if the eligible customer:

17 (a) Was not an end-use customer of the electric utility at any time before the  
18 effective date of this act; and

19 (b) Would have a peak load of 10 megawatts or more in the service territory  
20 of an electric utility within 2 years of initially taking electric service.

21 8. As used in this section:

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

24 (b) "Distributed generation system" has the meaning ascribed to it in NRS  
25 701.380.

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

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

29 (e) *"Energy" has the meaning ascribed to it in NRS 704B.090.*

30 ~~(f) "Generation asset" has the meaning ascribed to it in NRS 704B.100.~~

31 ~~(g) "New electric resource" has the meaning ascribed to it in NRS~~  
32 ~~704B.110.~~

33 ~~(h)~~ (g) *"Provider of new electric resources" has the meaning ascribed to it*  
34 *in NRS 704B.130.*

35 ~~(i)~~ (h) *"Renewable energy zones" means specific geographic zones where*  
36 *renewable energy resources are sufficient to develop generation capacity and where*  
37 *transmission constrains the delivery of electricity from those resources to*  
38 *customers.*

39 ~~(j)~~ (i) *"Sensitivity analysis" means a set of methods or procedures which*  
40 *results in a determination or estimation of the sensitivity of a result to a change*  
41 *in given data or a given assumption.*

42 **Sec. 6.** NRS 704.746 is hereby amended to read as follows:

43 704.746 1. After a utility has filed its plan pursuant to NRS 704.741, the  
44 Commission shall convene a public hearing on the adequacy of the plan.

45 2. The Commission shall determine the parties to the public hearing on the  
46 adequacy of the plan. A person or governmental entity may petition the  
47 Commission for leave to intervene as a party. The Commission must grant a  
48 petition to intervene as a party in the hearing if the person or entity has relevant  
49 material evidence to provide concerning the adequacy of the plan. The Commission  
50 may limit participation of an intervenor in the hearing to avoid duplication and may  
51 prohibit continued participation in the hearing by an intervenor if the Commission  
52 determines that continued participation will unduly broaden the issues, will not

1 provide additional relevant material evidence or is not necessary to further the  
2 public interest.

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

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

6 (a) The forecast requirements of the utility or utilities are based on  
7 substantially accurate data and an adequate method of forecasting.

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

12 (c) The plan adequately demonstrates the economic, environmental and other  
13 benefits to this State and to the customers of the utility or utilities associated with  
14 the following possible measures and sources of supply:

15 (1) Improvements in energy efficiency;

16 (2) Pooling of power;

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

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

19 (5) Facilities that operate on the principle of cogeneration or  
20 hydrogenation;

21 (6) Other generation facilities; and

22 (7) Other transmission facilities.

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

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

26 (b) Are consistent with the provisions of this section;

27 (c) Provide levels of service that are adequate and reliable;

28 (d) Provide the greatest opportunity for the creation of new jobs in this State;  
29 and

30 (e) Provide for diverse electricity supply portfolios and which reduce customer  
31 exposure to the price volatility of fossil fuels and the potential costs of carbon.

32 ➤ In considering the measures and sources of supply set forth in paragraph (c) of  
33 subsection 4 and determining the preference given to such measures and sources of  
34 supply, the Commission shall consider the cost of those measures and sources of  
35 supply to the customers of the electric utility or utilities.

36 6. The Commission shall:

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

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

41 7. The Commission shall:

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

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

48 8. The Commission shall, after a hearing, review and accept or modify an  
49 emissions reduction and capacity replacement plan which includes each element  
50 required by NRS 704.7316. In considering whether to accept or modify an  
51 emissions reduction and capacity replacement plan, the Commission shall consider:

52 (a) The cost to the customers of the electric utility or utilities to implement the  
53 plan;

- (b) Whether the plan provides the greatest economic benefit to this State;  
(c) Whether the plan provides the greatest opportunities for the creation of new jobs in this State; and  
(d) Whether the plan represents the best value to the customers of the electric utility or utilities.

9. *In considering whether to accept or modify a proposal for annual limits on the total amount of energy and capacity that eligible customers may be authorized to purchase from providers of new electric resources through transactions approved by the Commission pursuant to an application submitted pursuant to NRS 704B.310 ~~and~~ after May 16, 2019, which is included in the plan pursuant to subsection 6 of NRS 704.741, the Commission shall consider whether the proposed annual limits:*

(a) *Further the public interest, including, without limitation, whether the proposed annual limits promote safe, economic, efficient and reliable electric service to all customers of electric service in this State; ~~and~~*

(b) *Align an economically viable utility model with state public policy goals; and*

(c) *Encourage the development and use of renewable energy resources ~~and~~ located in this State and, in particular, renewable energy resources that are coupled with energy storage.*

Sec. 7. Chapter 704B of NRS is hereby amended by adding thereto the provisions set forth as sections 8, 9 and 10 of this act.

Sec. 8. *“License” means a license to sell energy, capacity and ancillary services to an eligible customer issued by the Commission pursuant to section 9 of this act.*

Sec. 9. 1. *To qualify for a license, a provider of new electric resources must do all of the following:*

(a) *Submit an application for the license to the Commission that includes all information deemed necessary by the Commission to determine whether the provider of new electric resources is qualified to obtain a license pursuant to this section.*

(b) *Demonstrate to the satisfaction of the Commission that the provider of new electric resources is authorized to conduct business pursuant to the laws of this State and the ordinances of the county, city or town in which the provider sells or will sell to sell energy, capacity and ancillary services to eligible customers.*

(c) *Demonstrate to the satisfaction of the Commission that the provider of new electric resources has the technical competence necessary to sell energy, capacity and ancillary services to eligible customers.*

(d) *Demonstrate to the satisfaction of the Commission that the provider of new electric resources has the managerial competence necessary to sell energy, capacity and ancillary services to eligible customers.*

(e) *Demonstrate to the satisfaction of the Commission that the provider of new electric resources has the financial capability to sell energy, capacity and ancillary services to eligible customers.*

(f) *Demonstrate to the satisfaction of the Commission financial responsibility.*

(g) *Demonstrate to the satisfaction of the Commission fitness to sell energy, capacity and ancillary services to eligible customers. In determining whether a provider of new electric resources is fit to sell energy, capacity and ancillary services to eligible customers, the Commission may consider:*

(I) *Whether legal action has been taken against the provider or any of its affiliates in another jurisdiction;*

(2) Whether customer complaints have been made concerning the provider or any of its affiliates in another jurisdiction; and

(3) The nature of any legal action or customer complaint against the provider or any of its affiliates in another jurisdiction.

(h) Demonstrate to the satisfaction of the Commission that the provider of new electric resources is in compliance with or will comply with NRS 704.78213.

2. The Commission may issue a license to a provider of new electric resources that is qualified for a license pursuant to subsection 1. The Commission, after notice and a hearing in the manner set forth in chapter 703 of NRS, may deny the application of a provider of new electric resources for a license or limit, suspend or revoke a license issued to a provider of new electric resources if such action is necessary to protect the public interest or to enforce a provision of the laws of this State or a regulation adopted by the Commission that is applicable to the provider of new electric resources.

3. The Commission may adopt regulations requiring each provider of new electric resources to submit to the Commission such information as the Commission determines is necessary to ensure that:

(a) Each provider of new electric resources has sufficient energy, capacity and ancillary services, or the ability to obtain energy, capacity and ancillary services, to satisfy the demand of each eligible customer purchasing energy, capacity or ancillary services from the provider;

(b) Eligible customers served by a provider of new electric resources will receive safe and reliable service from the provider; and

(c) Each provider of new electric resources complies with this chapter and any other laws of this State applicable to each provider.

**Sec. 10.** 1. The Commission shall by regulation establish a procedure for an eligible customer who is purchasing energy, capacity or ancillary services from a provider of new electric resources to apply to the Commission to purchase bundled electric service from an electric utility. The Commission may ~~establish~~ as it deems necessary and appropriate to prevent harm to the customers of an electric utility:

(a) Establish a limit on the number of times an eligible customer may be approved to purchase energy, capacity or ancillary services from a provider of new electric resources [as the Commission deems necessary and appropriate to prevent harm to the customers of an electric utility]; and

(b) Establish limitations on the use of the tariffs approved by the Commission pursuant to NRS 704B.330.

2. If the Commission approves an application submitted pursuant to the regulations required to be adopted by subsection 1, the Commission shall order such terms and conditions as the Commission deems necessary and appropriate to ensure that the purchase of bundled electric service from an electric utility does not harm the existing customers of the electric utility.

**Sec. 11.** NRS 704B.010 is hereby amended to read as follows:

704B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 704B.020 to 704B.140, inclusive, *and section 8 of this act* have the meanings ascribed to them in those sections.

**Sec. 12.** NRS 704B.080 is hereby amended to read as follows:

704B.080 "Eligible customer" means an end-use customer which is:

1. A nongovernmental commercial or industrial end-use customer that ~~has~~ *: (a) Was an end-use customer of an electric utility at any time before the effective date of this act; and*

*(b) Has* an average annual load of 1 megawatt or more in the service territory of an electric utility.

2. A governmental entity, including, without limitation, a governmental entity providing educational or health care services, that:

(a) *Was an end-use customer of an electric utility at any time before the effective date of this act;*

(b) Performs its functions using one or more facilities which are operated under a common budget and common control; and

~~[(b)]~~ (c) Has an average annual load of 1 megawatt or more in the service territory of an electric utility.

3. A governmental entity, including, without limitation, a governmental entity providing educational or health care services, that:

(a) Was not an end-use customer of an electric utility at any time before the effective date of this act;

(b) Performs its functions using one or more facilities which are operated under a common budget and common control; and

(c) Would have an average annual load of 1 megawatt or more in the service territory of an electric utility.

4. A nongovernmental commercial or industrial end-use customer that:

(a) Was not an end-use customer of an electric utility at any time before the effective date of this act; and

(b) Would have an average annual load of 1 megawatt or more in the service territory of an electric utility.

**Sec. 13.** NRS 704B.110 is hereby amended to read as follows:

704B.110 "New electric resource" means ~~[-]~~:

~~1. The~~ *the* energy, capacity or ancillary services and any increased or additional energy, capacity or ancillary services which are ~~[-]~~ *able to be delivered to an eligible customer and are made available:*

~~[(a) Made available from a]~~

*1. From an identifiable* generation asset that is not owned by an electric utility or is not subject to contractual commitments to an electric utility that make the energy, capacity or ancillary services from the generation asset unavailable for purchase by an eligible customer; ~~and~~

~~—(b) Able to be delivered to an eligible customer.] or~~

*2. [Any increased energy, capacity or ancillary services made available from a generation asset pursuant to an agreement described in NRS 704B.260.] By way of market purchases through a provider of new electric resources.*

**Sec. 14.** NRS 704B.170 is hereby amended to read as follows:

704B.170 1. The provisions of this chapter do not alter, diminish or otherwise affect any rights or obligations arising under any contract which requires an electric utility to purchase energy, capacity or ancillary services from another party. ~~[and which exists on July 17, 2001.]~~

2. Each electric utility or its assignee shall comply with the terms of any contract which requires the electric utility or its assignee to purchase energy, capacity or ancillary services from another party. ~~[and which exists on July 17, 2001.]~~

**Sec. 15.** NRS 704B.210 is hereby amended to read as follows:

704B.210 The Commission shall, not later than 2 business days after receiving a request in writing from the Legislative Commission, submit to the Legislative Commission a written report which summarizes for the period requested by the Legislative Commission:

1. Each application which was filed with the Commission pursuant to the provisions of this chapter and which requested approval of a proposed transaction between an eligible customer and a provider of new electric resources;



2. The *public* information that the eligible customer included with the application;

3. The findings of the Commission concerning the effect of the proposed transaction on the public interest; and

4. Whether the Commission approved the application and, if so, the effective date of the proposed transaction, the terms and conditions of the proposed transaction, and the terms, conditions and payments ordered by the Commission.

**Sec. 16.** NRS 704B.300 is hereby amended to read as follows:

704B.300 1. Except as otherwise provided in this section, a provider of new electric resources may sell energy, capacity or ancillary services to one or more eligible customers if ~~[and the provider holds a valid license and;~~

(a) The eligible customers have been approved to purchase energy, capacity and ancillary services from the provider pursuant to the provisions of NRS 704B.310; ~~and 704B.320;~~ or

(b) The transaction complies with the provisions of NRS 704B.325.

2. A provider of new electric resources shall not sell energy, capacity or ancillary services to an eligible customer if the transaction violates the provisions of this chapter.

3. A provider of new electric resources that sells energy, capacity or ancillary services to an eligible customer pursuant to the provisions of this chapter:

(a) Does not become and shall not be deemed to be a public utility solely because of that transaction; and

(b) ~~[Does not become and shall not be deemed to be]~~ *Becomes* subject to the jurisdiction of the Commission ~~[except as otherwise provided in this chapter or by specific statute.]~~ *only for the purposes of this chapter and NRS [703.033, 703.035] 704.033, 704.035 and 704.7801 to 704.7828, inclusive.*

4. If a provider of new electric resources is not a public utility in this state and is not otherwise authorized by the provisions of a specific statute to sell energy, capacity or ancillary services at retail in this state, the provider shall not sell energy, capacity or ancillary services at retail in this state to a person or entity that is not an eligible customer.

**Sec. 17.** NRS 704B.310 is hereby amended to read as follows:

704B.310 1. An eligible customer ~~[that is purchasing bundled electric service for all or any part of its load from an electric utility]~~ shall not purchase energy, capacity or ancillary services from a provider of new electric resources unless:

(a) The eligible customer files an application with the Commission *between January 2 and February 1 of any year and* not later than ~~[180]~~ 280 days before the date on which the eligible customer intends to begin purchasing energy, capacity or ancillary services from the provider; ~~except that the Commission may allow the eligible customer to file the application within any shorter period that the Commission deems appropriate; and]~~

(b) The Commission approves the application by a written order issued in accordance with the provisions of this section ~~and NRS 704B.320;~~ *and*

*(c) The provider holds a valid license.*

2. Except as otherwise provided in subsection 3, each application filed pursuant to this section must include:

(a) ~~[Information]~~ *Specific information* demonstrating that the person filing the application is an eligible customer;

(b) Information demonstrating that the proposed provider will provide energy, capacity or ancillary services from a new electric resource;

(c) ~~[Information]~~ *Specific information* concerning the terms and conditions of the proposed transaction that is necessary for the Commission to evaluate the



1 impact of the proposed transaction on customers and the public interest, including,  
2 without limitation, information concerning the duration of the proposed transaction  
3 *, the point of receipt of the energy, capacity or ancillary services* and the amount  
4 of energy, capacity or ancillary services to be purchased from the provider; ~~and~~

5 (d) *Specific information identifying transmission requirements associated*  
6 *with the proposed transaction and the extent to which the proposed transaction*  
7 *requires transmission import capacity; and*

8 (e) Any other information required pursuant to the regulations adopted by the  
9 Commission.

10 3. ~~Except as otherwise provided in NRS 704B.320, the~~ *The* Commission  
11 shall not require the eligible customer or provider to disclose:

12 (a) The price that is being paid by the eligible customer to purchase energy,  
13 capacity or ancillary services from the provider; or

14 (b) Any other terms or conditions of the proposed transaction that the  
15 Commission determines are commercially sensitive.

16 4. The Commission shall provide public notice of the application of the  
17 eligible customer and an opportunity for a hearing on the application in a manner  
18 that is consistent with the provisions of NRS 703.320 and the regulations adopted  
19 by the Commission.

20 5. The Commission shall *not* approve the application of the eligible customer  
21 unless the Commission finds that the proposed transaction:

22 (a) Will be ~~contrary to~~ *in* the public interest; ~~or~~

23 ~~— (b) Does not comply with the provisions of NRS 704B.320, if those provisions~~  
24 ~~apply to the proposed transaction; and~~

25 (b) *Will not cause the total amount of energy and capacity that eligible*  
26 *customers purchase from providers of new electric resources through*  
27 *transactions approved by the Commission pursuant to an application submitted*  
28 *pursuant to this section on or after May 16, 2019, to exceed an annual limit set*  
29 *forth in a plan filed with the Commission pursuant to NRS 704.741 and accepted*  
30 *by the Commission pursuant to NRS 704.751.*

31 6. In determining whether the proposed transaction will be ~~contrary to~~ *in* the  
32 public interest, the Commission shall consider, without limitation:

33 (a) Whether the electric utility that has been providing electric service to the  
34 eligible customer will ~~be burdened by~~ *experience* increased costs as a result of the  
35 proposed transaction ~~or whether~~ ;

36 (b) *Whether* any remaining customer of the electric utility will pay increased  
37 costs for electric service *or forgo the benefit of a reduction of costs for electric*  
38 *service* as a result of the proposed transaction; *and*

39 ~~{(b)}~~ (c) Whether the proposed transaction will impair system reliability or the  
40 ability of the electric utility to provide electric service to its remaining customers .  
41 ~~;~~ *and*

42 ~~— (c) Whether the proposed transaction will add energy, capacity or ancillary~~  
43 ~~services to the supply in this State.~~

44 7. If the Commission approves the application of the eligible customer:

45 (a) The eligible customer shall not begin purchasing energy, capacity or  
46 ancillary services from the provider pursuant to the proposed transaction sooner  
47 than ~~{180}~~ *280* days after the date on which the application was filed, unless the  
48 Commission allows the eligible customer to begin purchasing energy, capacity or  
49 ancillary services from the provider at an earlier date; and

50 (b) The Commission shall order such terms, conditions and payments as the  
51 Commission deems necessary and appropriate to ensure that the proposed  
52 transaction will ~~not~~ be ~~contrary to~~ *in* the public interest. ~~{Such}~~ *Except as*  
53 *otherwise provided in subsection 8, such* terms, conditions and payments:

(1) Must be fair and nondiscriminatory as between the eligible customer and the remaining customers of the electric utility ~~{-and}~~, *except that the terms, conditions and payments must assign all identifiable but unquantifiable risk to the eligible customer;*

(2) Must include, without limitation:

(I) Payment by the eligible customer to the electric utility of the eligible customer's load-share portion of any unrecovered balance in the deferred accounts of the electric utility; and

(II) Payment by the eligible customer *, or the provider of new electric resources, as applicable,* of the annual assessment and any other tax, fee or assessment required by NRS 704B.360 ~~{-}~~;

(3) *Must establish payments calculated in a manner that provides the eligible customer with only its load-ratio share of the benefits associated with forecasted load growth if load growth is utilized to mitigate the impact of the eligible customer's proposed transaction; and*

(4) *Must ensure that the eligible customer pays its load-ratio share of the costs associated with the electric utility's obligations that were incurred as deviations from least-cost resource planning pursuant to the laws of this State ~~{-}~~ including, without limitation, costs incurred to satisfy the requirements of NRS 704.7821 and implement the provisions of NRS 701B.240, 701B.336, 701B.580, 701B.670, 701B.820, 702.160, 704.773, 704.7827, 704.7836, 704.785, and Senate Bill No. 329 and Assembly Bill No. 465 of the 2019 Legislative Session.*

8. *Eligible customers identified in subsection 3 or 4 of NRS 704B.080 are required to pay only those costs, fees, charges or rates which apply to current and ongoing legislatively mandated public policy programs, as determined by the Commission.*

9. ~~If the Commission does not enter a final order on the application of the eligible customer within ~~{-50}~~ 210 days after the date on which the application was filed with the Commission ~~{-}~~~~

~~—(a) The~~, the application shall be deemed to be ~~{-approved}~~ *denied* by the Commission. ~~{-and}~~

~~—(b) The eligible customer may begin purchasing energy, capacity or ancillary services from the provider pursuant to the proposed transaction.]~~

**Sec. 18.** NRS 704B.325 is hereby amended to read as follows:

704B.325 1. An eligible customer that is purchasing energy, capacity or ancillary services from a provider of new electric resources may purchase energy, capacity or ancillary services from an alternative provider without obtaining the approval of the Commission if ~~{-the}~~ :

(a) *The* terms and conditions of the transaction with the alternative provider, other than the price of the energy, capacity or ancillary services, conform to the terms and conditions of the transaction that was originally approved by the Commission with respect to the eligible customer ~~{-}~~ *, including, without limitation, any terms and conditions, other than the price of the energy, capacity or ancillary services, that were approved by the Commission to address the factors considered by the Commission pursuant to subsection 6 of NRS 704B.310; and*

(b) *The alternative provider holds a license.*

2. If any terms and conditions of the transaction with the alternative provider, other than the price of the energy, capacity or ancillary services, do not conform to the terms and conditions of the transaction that was originally approved by the Commission with respect to the eligible customer, the eligible customer must obtain approval from the Commission before those nonconforming terms and conditions are enforceable.

3. If the eligible customer files a request with the Commission for approval of any nonconforming terms and conditions, the Commission shall review and make a determination concerning the request on an expedited basis.

4. Notwithstanding any specific statute to the contrary, information concerning any terms and conditions of the transaction with the alternative provider that the Commission determines are commercially sensitive:

(a) Must not be disclosed by the Commission except to the Regulatory Operations Staff of the Commission, the Consumer's Advocate, the staff of the Consumer's Advocate and the affected electric utility for the purposes of carrying out the provisions of this section; and

(b) Except as otherwise provided in NRS 239.0115, shall be deemed to be confidential for all other purposes, and the Commission shall take such actions as are necessary to protect the confidentiality of such information.

**Sec. 19.** ~~NRS 704B.330 is hereby amended to read as follows:~~

~~704B.330 1. If an eligible customer is purchasing energy, capacity or ancillary services from a provider of new electric resources, the eligible customer may, pursuant to tariffs approved by the Commission, replace some or all, but not less than all at a single time-of-use meter, of the energy, capacity or ancillary services purchased from the provider of new electric resources with energy, capacity or ancillary services purchased from an electric utility.~~

~~2. The tariffs approved by the Commission pursuant to this section must include, without limitation:~~

~~(a) Provisions requiring the eligible customer to pay any incremental costs that are incurred by the electric utility to provide energy to the eligible customer;~~

~~(b) Provisions requiring the eligible customer to provide reasonable and adequate notice to the electric utility;~~

~~(c) Provisions establishing minimum terms during which the eligible customer must continue to purchase energy from the electric utility; and~~

~~(d) Any other provisions that the Commission determines are necessary and reasonable to carry out and enforce the provisions of this section.~~

~~3. If, pursuant to the tariffs approved by the Commission pursuant to this section, an eligible customer purchases energy, capacity or ancillary services from an electric utility for more than 30 calendar days:~~

~~(a) The authority of the eligible customer to purchase energy, capacity and ancillary services from a provider of new electric resources is void; and~~

~~(b) The eligible customer may not purchase energy, capacity or ancillary services from a provider of new electric resources unless the eligible customer obtains another approval to purchase energy, capacity and ancillary services from the provider pursuant to the provisions of NRS 704B.310.] (Deleted by amendment.)~~

**Sec. 20.** NRS 704B.340 is hereby amended to read as follows:

704B.340 1. A provider of new electric resources shall not sell energy, capacity or ancillary services to an eligible customer unless the customer has a time-of-use meter installed at the point of delivery of energy to the eligible customer.

2. *The Commission shall establish the date by which an electric utility must ensure that metering equipment is installed and operational at the point of delivery of energy to the eligible customer.*

3. An electric utility shall install a time-of-use meter at each point of delivery of energy to the eligible customer if the eligible customer does not have a time-of-use meter at that point of delivery. If the eligible customer is:

1 (a) A nongovernmental commercial or industrial end-use customer, the eligible  
2 customer or the provider shall pay all costs for the time-of-use meter and for  
3 installation of the time-of-use meter by the electric utility.

4 (b) A governmental entity, the provider shall pay all costs for the time-of-use  
5 meter and for installation of the time-of-use meter by the electric utility.

6 ~~[3.]~~ 4. Not more than one person or entity may sell the energy that is  
7 delivered to an eligible customer through any one time-of-use meter.

8 ~~[4.]~~ 5. The provisions of this section do not prohibit:

9 (a) An eligible customer from having more than one time-of-use meter  
10 installed for the same service location; or

11 (b) An eligible customer from installing any other meter or equipment that is  
12 necessary or appropriate to the transaction with the provider, if such a meter or  
13 equipment is otherwise consistent with system reliability.

14 **Sec. 21.** NRS 704B.360 is hereby amended to read as follows:

15 704B.360 1. If the Commission approves an application that is filed  
16 pursuant to NRS 704B.310 or a request that is filed pursuant to NRS 704B.325, ~~the~~  
17 ~~Commission shall order~~ the eligible customer ~~to~~ *or the provider of new electric*  
18 *resources, as applicable, shall:*

19 (a) Pay its share of the annual assessment levied pursuant to NRS 704.033 to  
20 the Commission and the Bureau of Consumer Protection in the Office of the  
21 Attorney General;

22 (b) Pay any other tax, fee or assessment that would be due a governmental  
23 entity had the eligible customer continued to purchase energy, capacity or ancillary  
24 services from the electric utility; ~~and~~

25 (c) Remit any tax, fee or assessment collected pursuant to paragraph (b) to the  
26 applicable governmental entity; ~~and~~

27 ~~(d) Pay any cost, fee or rate which:~~

28 ~~(1) Would be due to the electric utility for the service territory of the~~  
29 ~~eligible customer had the eligible customer continued to purchase energy,~~  
30 ~~capacity or ancillary services from the electric utility;~~

31 ~~(2) Is associated with the implementation of any provision of chapter~~  
32 ~~701B, 702 or 704 of NRS; and~~

33 ~~(3) Is determined by the Commission to be appropriate for payment by an~~  
34 ~~eligible customer or provider of new electric resources, as applicable. The~~  
35 ~~Commission shall annually determine the costs, fees and rates described in this~~  
36 ~~paragraph which are appropriate for payment by an eligible customer or provider~~  
37 ~~of new electric resources, as applicable.]~~

38 2. Each person or entity that is responsible for billing an eligible customer  
39 shall ensure that the amount which the eligible customer must pay pursuant to  
40 paragraph (b) of subsection 1 is set forth as a separate item or entry on each bill  
41 submitted to the eligible customer.

42 3. If an eligible customer to whom an order is issued pursuant to subsection 1  
43 thereafter purchases energy, capacity or ancillary services from an alternative  
44 provider pursuant to NRS 704B.325 without obtaining the approval of the  
45 Commission, the order issued pursuant to subsection 1 continues to apply to the  
46 eligible customer.

47 4. Upon petition by a governmental entity to which a tax, fee or assessment  
48 must be remitted pursuant to this section ~~[.]~~ *or the Regulatory Operations Staff of*  
49 *the Commission*, the Commission may limit, suspend or revoke any order issued to  
50 an eligible customer by the Commission pursuant to NRS 704B.310 ~~and~~  
51 ~~704B.320], limit, suspend or revoke any license issued to a provider of new~~  
52 ~~electric resources pursuant to section 9 of this act, or impose an administrative~~  
53 ~~fine pursuant to NRS 703.380, or both limit, suspend or revoke any order or~~

1 *license and impose an administrative fine pursuant to NRS 703.380*, if the  
2 Commission, after providing an appropriate notice and hearing, determines that the  
3 eligible customer *or provider of new electric resources, as applicable*, has failed to  
4 pay ~~the~~ any tax, fee , ~~for~~ assessment ~~+~~ *cost or rate required to be paid or*  
5 *remitted pursuant to subsection 1.*

6 **Sec. 22.** NRS 239.010 is hereby amended to read as follows:

7 239.010 1. Except as otherwise provided in this section and NRS 1.4683,  
8 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516,  
9 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150,  
10 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413,  
11 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345,  
12 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260,  
13 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690,  
14 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057,  
15 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044,  
16 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156,  
17 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165,  
18 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392,  
19 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131,  
20 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130,  
21 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473,  
22 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140,  
23 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039,  
24 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140,  
25 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350,  
26 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110,  
27 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503,  
28 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110,  
29 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725,  
30 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100,  
31 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138,  
32 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008,  
33 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501,  
34 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035, 391.120, 391.925,  
35 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335,  
36 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405,  
37 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484,  
38 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236,  
39 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407,  
40 432B.430, 432B.560, 432B.5902, 433.534, 433A.360, 437.145, 439.840, 439B.420,  
41 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 445A.665,  
42 445B.570, 449.209, 449.245, 449A.112, 450.140, 453.164, 453.720, 453A.610,  
43 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846,  
44 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365,  
45 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363,  
46 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452, 522.040,  
47 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110,  
48 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015,  
49 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110,  
50 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047,  
51 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125,  
52 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158,  
53 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,

640A.220, 640B.730, 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, ~~704B.320~~, 704B.325, 706.1725, 706A.230, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

**Sec. 23.** NRS 239C.270 is hereby amended to read as follows:

239C.270 1. Each utility *and each provider of new electric resources* shall:

(a) Conduct a vulnerability assessment in accordance with the requirements of the federal and regional agencies that regulate the utility ~~or~~ *or provider*; and

(b) Prepare and maintain an emergency response plan in accordance with the requirements of the federal and regional agencies that regulate the utility ~~or~~ *or provider*.

2. Each utility shall:

(a) As soon as practicable but not later than December 31, 2003, submit its vulnerability assessment and emergency response plan to the Division; and

(b) At least once each year thereafter, review its vulnerability assessment and emergency response plan and, as soon as practicable after its review is completed but not later than December 31 of each year, submit the results of its review and any additions or modifications to its emergency response plan to the Division.

3. *Each provider of new electric resources shall:*

(a) *As soon as practicable but not later than December 31, 2019, submit its vulnerability assessment and emergency response plan to the Division; and*

(b) *At least once each year thereafter, review its vulnerability assessment and emergency response plan and, as soon as practicable after its review is completed but not later than December 31 of each year, submit the results of its review and any additions or modifications to its emergency response plan to the Division.*

4. Except as otherwise provided in NRS 239.0115, each vulnerability assessment and emergency response plan of a utility *or provider of new electric resources* and any other information concerning a utility *or provider* that is necessary to carry out the provisions of this section is confidential and must be securely maintained by each person or entity that has possession, custody or control of the information.

~~4.1~~ 5. Except as otherwise provided in NRS 239C.210, a person shall not disclose such information, except:

(a) Upon the lawful order of a court of competent jurisdiction;

(b) As is reasonably necessary to carry out the provisions of this section or the operations of the utility ~~or~~ *or provider of new electric resources*, as determined by the Division;

(c) As is reasonably necessary in the case of an emergency involving public health or safety, as determined by the Division; or

(d) Pursuant to the provisions of NRS 239.0115.

~~5.1~~ 6. If a person knowingly and unlawfully discloses such information or assists, solicits or conspires with another person to disclose such information, the person is guilty of:

(a) A gross misdemeanor; or

(b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

(1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or

(2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

7. *As used in this section, "provider of new electric resources" has the meaning ascribed to it in NRS 704B.130.*

**Sec. 24.** 1. Notwithstanding any other provision of law, an application filed before the effective date of this act pursuant to NRS 704B.310, as that section existed before the effective date of this act, shall be deemed to be denied by the Public Utilities Commission of Nevada unless the ~~Commission has issued a final order approving the~~ application was filed before ~~July 1, 2019. A person whose application is deemed to be denied pursuant to this section may file an application with the Commission pursuant to NRS 704B.310, as amended by section 17 of this act. If a person whose application is deemed to be denied pursuant to this section files an application with the Commission pursuant to NRS 704B.310, as amended by section 17 of this act, the Commission shall give priority to the person when determining whether the annual limit on the total amount of energy and capacity that eligible customers may purchase from providers of new electric resources, which is included in a plan submitted to the Commission pursuant to subsection 6 of NRS 704.741, as amended by section 5 of this act, and accepted by the~~



~~Commission pursuant to NRS 704.746, as amended by section 6 of this act, has been exceeded.~~

~~2. As used in this section:~~

~~(a) "Eligible customer" has the meaning ascribed to it in NRS 704B.080, as amended by section 12 of this act.~~

~~(b) "Provider of new electric resources" has the meaning ascribed to it in NRS 704B.130.] May 16, 2019.~~

**2. The amendatory provisions of this act governing the consideration and disposition by the Public Utilities Commission of Nevada of an application filed pursuant to NRS 704B.310 do not apply to an application filed before May 16, 2019, and the disposition of such an application must be controlled by the applicable statutes as they existed before the effective date of this act.**

**Sec. 25.** Notwithstanding the provisions of NRS 704B.080, as amended by section 12 of this act, an eligible customer who, before the effective date of this act, was approved to purchase energy, capacity or ancillary services from a provider of new electric resources pursuant to the provisions of NRS 704B.310, as that section existed before the effective date of this act, shall be deemed to be an eligible customer on and after the effective date of this act.

**Sec. 26.** 1. Notwithstanding the provisions of NRS 704B.300, as amended by section 16 of this act, a provider of new electric resources who, before the effective date of this act, sold energy, capacity or ancillary services to one or more eligible customers that were approved to purchase energy, capacity or ancillary services from the provider pursuant to NRS 704B.310, as that section existed before the effective date of this act, ~~[may, on and after the effective date of this act,]~~ **must be issued a license by the Commission authorizing the provider of new electric resources to sell energy, capacity or ancillary services to that eligible customer [without obtaining a license from the Public Utilities Commission of Nevada pursuant to section 9 of this act if:**

~~— (a) Not]~~ **if, not** later than 30 days after a date established by the Commission by regulation, the provider submits to the Commission an application for a license pursuant to section 9 of this act. ~~[; and~~

~~— (b) The Commission approves the application and issues a license to the provider.]~~

2. Notwithstanding the provisions of NRS 704B.310, as amended by section 17 of this act, an eligible customer who, before the effective date of this act, was approved to purchase energy, capacity or ancillary services from a provider of new electric resources pursuant to the provisions of NRS 704B.310, as that section existed before the effective date of this act, may, on and after the effective date of this act, purchase energy, capacity and ancillary services from that provider if ~~;~~

~~— (a) Not]~~ **, not** later than 30 days after a date established by the Commission by regulation, the provider submits to the Commission an application for a license pursuant to section 9 of this act. ~~[; and~~

~~— (b) The Commission approves the application and issues a license to the provider.~~

~~3. Notwithstanding the provisions of NRS 704B.325, as amended by section 18 of this act, an eligible customer who, before the effective date of this act, was approved to purchase energy, capacity or ancillary services from a provider of new electric resources pursuant to the provisions of NRS 704B.310, as that section existed before the effective date of this act, may, on and after the effective date of this act, purchase energy, capacity or ancillary services from an alternative provider pursuant to NRS 704B.325, as amended by section 18 of this act, if:~~

~~— (a) Before the effective date of this act, the alternative provider sold energy, capacity or ancillary services to any eligible customer pursuant to a transaction~~



1 ~~approved pursuant to NRS 704B.310 or 704B.325, as those sections existed before~~  
2 ~~the effective date of this act;~~

3 ~~— (b) Not later than 30 days after a date established by the Commission by~~  
4 ~~regulation, the provider submits to the Commission an application for a license~~  
5 ~~pursuant to section 9 of this act; and~~

6 ~~— (c) The Commission approves the application and issues a license to the~~  
7 ~~provider.]~~

8 3. Notwithstanding the provisions of NRS 704B.310, as amended by  
9 section 17 of this act, an eligible customer who submitted an application  
10 pursuant to NRS 704B.310 before May 16, 2019, and was approved to  
11 purchase energy, capacity or ancillary services from a provider of new electric  
12 resources pursuant to the provisions of NRS 704B.310, as that section existed  
13 before the effective date of this act, may, on or after the date of the order  
14 authorizing the eligible customer to purchase energy, capacity or ancillary  
15 services from a provider of new electric resources, purchase such services from  
16 that provider if, not later than 30 days after a date established by the  
17 commission by regulation, the provider submits to the Commission an  
18 application for a license pursuant to section 9 of this act.

19 Sec. 27. NRS 704B.060, 704B.070, 704B.260 and 704B.320 are hereby  
20 repealed.

21 Sec. 28. This act becomes effective upon passage and approval.

---

---

## TEXT OF REPEALED SECTIONS

---

---

**704B.060 “Electric utility that primarily serves densely populated counties” defined.** “Electric utility that primarily serves densely populated counties” means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this state from customers located in counties whose population is 700,000 or more than it does from customers located in counties whose population is less than 700,000.

**704B.070 “Electric utility that primarily serves less densely populated counties” defined.** “Electric utility that primarily serves less densely populated counties” means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this state from customers located in counties whose population is less than 700,000 than it does from customers located in counties whose population is 700,000 or more.

**704B.260 Electric utilities may enter into certain agreements relating to generation assets; increased energy, capacity or ancillary services deemed new electric resource; ownership and use of new electric resource; limitations; duties and restrictions imposed on Commission.**

1. Except as otherwise provided in this section, an electric utility may, at its discretion, enter into agreements relating to its generation assets and the energy, capacity or ancillary services provided by its generation assets with one or more other persons who are not electric utilities. Such agreements, without limitation:

(a) May include agreements to construct or install a new generation asset on real property that is adjacent to an existing generation asset owned by the electric utility; and

(b) May provide for the sharing of available common facilities with the existing generation asset or the reengineering, repowering or expansion of the

existing generation asset to generate energy more efficiently and at a lower cost and to make more energy available to customers in this state.

2. Any increased energy, capacity or ancillary services made available from a new generation asset or an existing generation asset pursuant to an agreement described in subsection 1 shall be deemed to be a new electric resource that may be:

(a) Owned by the parties to the agreement who are not electric utilities; and

(b) Used or consumed by such parties for their own purposes, sold at wholesale by such parties or sold by such parties to one or more eligible customers pursuant to the provisions of this chapter.

3. A transaction undertaken pursuant to an agreement described in subsection 1:

(a) Must not impair system reliability or the ability of the electric utility to provide electric service to its customers; and

(b) Must not violate the provisions of NRS 704.7561 to 704.7595, inclusive.

4. The provisions of this section do not exempt any party to an agreement described in subsection 1 from any applicable statutory or regulatory requirements relating to siting, construction and operation of a generation asset.

5. The Commission shall encourage the development of new electric resources and shall not exercise its regulatory authority in a manner that unnecessarily or unreasonably restricts, conditions or discourages any agreement described in subsection 1 that is likely to result in increased energy, capacity or ancillary services from a generation asset or improved or more efficient operation or management of a generation asset.

**704B.320 Conditions and limitations for certain proposed transactions; requirements for certain eligible customers; limited disclosure of certain information; duties of Commission; compliance with portfolio standard.**

1. For eligible customers whose loads are in the service territory of an electric utility that primarily serves densely populated counties, the aggregate amount of energy that all such eligible customers purchase from providers of new electric resources before July 1, 2003, must not exceed 50 percent of the difference between the existing supply of energy generated in this State that is available to the electric utility and the existing demand for energy in this State that is consumed by the customers of the electric utility, as determined by the Commission.

2. An eligible customer that is a nongovernmental commercial or industrial end-use customer whose load is in the service territory of an electric utility that primarily serves densely populated counties shall not purchase energy, capacity or ancillary services from a provider of new electric resources unless, as part of the proposed transaction, the eligible customer agrees to:

(a) Contract with the provider to purchase:

(1) An additional amount of energy which is equal to 10 percent of the total amount of energy that the eligible customer is purchasing for its own use under the proposed transaction and which is purchased at the same price, terms and conditions as the energy purchased by the eligible customer for its own use; and

(2) The capacity and ancillary services associated with the additional amount of energy at the same price, terms and conditions as the capacity and ancillary services purchased by the eligible customer for its own use; and

(b) Offers to assign the rights to the contract to the electric utility for use by the remaining customers of the electric utility.

3. If an eligible customer is subject to the provisions of subsection 2, the eligible customer shall include with its application filed pursuant to NRS 704B.310 all information concerning the contract offered to the electric utility that is necessary for the Commission to determine whether it is in the best interest of the remaining customers of the electric utility for the electric utility to accept the rights

to the contract. Such information must include, without limitation, the amount of the energy and capacity to be purchased under the contract, the price of the energy, capacity and ancillary services and the duration of the contract.

4. Notwithstanding any specific statute to the contrary, information concerning the price of the energy, capacity and ancillary services and any other terms or conditions of the contract that the Commission determines are commercially sensitive:

(a) Must not be disclosed by the Commission except to the Regulatory Operations Staff of the Commission, the Consumer's Advocate, the staff of the Consumer's Advocate and the electric utility for the purposes of carrying out the provisions of this section; and

(b) Except as otherwise provided in NRS 239.0115, shall be deemed to be confidential for all other purposes, and the Commission shall take such actions as are necessary to protect the confidentiality of such information.

5. If the Commission determines that the contract:

(a) Is not in the best interest of the remaining customers of the electric utility, the electric utility shall not accept the rights to the contract, and the eligible customer is entitled to all rights to the contract.

(b) Is in the best interest of the remaining customers of the electric utility, the electric utility shall accept the rights to the contract and the eligible customer shall assign all rights to the contract to the electric utility. A contract that is assigned to the electric utility pursuant to this paragraph shall be deemed to be an approved part of the resource plan of the electric utility and a prudent investment, and the electric utility may recover all costs for the energy, capacity and ancillary services acquired pursuant to the contract. To the extent practicable, the Commission shall take actions to ensure that the electric utility uses the energy, capacity and ancillary services acquired pursuant to each such contract only for the benefit of the remaining customers of the electric utility that are not eligible customers, with a preference for the remaining customers of the electric utility that are residential customers with small loads.

6. The provisions of this section do not exempt the electric utility, in whole or in part, from the requirements imposed on the electric utility pursuant to NRS 704.7801 to 704.7828, inclusive, to comply with its portfolio standard. The Commission shall not take any actions pursuant to this section that conflict with or diminish those requirements.