

MOCK-UP

PROPOSED AMENDMENT 9410 TO
SENATE BILL NO. 123
SECOND REPRINT

PREPARED FOR ASSEMBLYMAN HANSEN
MAY 31, 2013

PREPARED BY THE LEGAL DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed 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 that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

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

- 1 **Section 1.** Chapter 704 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 13, inclusive, of this act.
3 **Sec. 2.** *As used in sections 2 to 13, inclusive, of this act, unless the*
4 *context otherwise requires, the words and terms defined in sections 2.5 to*
5 *6, inclusive, of this act have the meanings ascribed to them in those*
6 *sections.*
7 **Sec. 2.5.** *“Coal-fired electric generating plant” means an electric*
8 *generating plant which burns coal to produce electricity and which is*
9 *owned, in whole or in part, by an electric utility.*
10 **Sec. 3.** (Deleted by amendment.)
11 **Sec. 4.** *“Electric utility” means an electric utility that primarily*
12 *serves densely populated counties, as that term is defined in paragraph*
13 *(c) of subsection 17 of NRS 704.110.*
14 **Sec. 5.** *“Emissions reduction and capacity replacement plan”*
15 *means a plan filed by an electric utility with the Commission pursuant to*
16 *section 7 of this act.*

1 **Sec. 6. “Renewable energy facility” means an electric generating**
2 **facility that uses renewable energy to produce electricity. As used in this**
3 **section, “renewable energy” has the meaning ascribed to it in NRS**
4 **704.7811.**

5 **Sec. 7. 1. An electric utility shall file with the Commission, as part**
6 **of the plan required to be submitted pursuant to NRS 704.741, a**
7 **comprehensive plan for the reduction of emissions from coal-fired**
8 **electric generating plants and the replacement of the capacity of such**
9 **plants with increased capacity from renewable energy facilities and other**
10 **electric generating plants.**

11 **2. The emissions reduction and capacity replacement plan must**
12 **provide:**

13 **(a) For the retirement or elimination of:**

14 **(1) Not less than 300 megawatts of coal-fired electric generating**
15 **capacity on or before December 31, 2014;**

16 **(2) In addition to the generating capacity retired or eliminated**
17 **pursuant to subparagraph (1), not less than 250 megawatts of coal-fired**
18 **electric generating capacity on or before December 31, 2017; and**

19 **(3) In addition to the generating capacity retired or eliminated**
20 **pursuant to subparagraphs (1) and (2), not less than 250 megawatts of**
21 **coal-fired electric generating capacity on or before December 31, 2019.**

22 **↪ For the purposes of this paragraph, the generating capacity of a coal-**
23 **fired electric generating plant must be determined by reference to the**
24 **most recent resource plan filed by the electric utility pursuant to NRS**
25 **704.741 and accepted by the Commission pursuant to NRS 704.751.**

26 **(b) For the construction or acquisition of, or contracting for, 350**
27 **megawatts of electric generating capacity from renewable energy**
28 **facilities. The electric utility shall:**

29 **(1) Issue a request for proposals for 100 megawatts of electric**
30 **generating capacity from new renewable energy facilities on or before**
31 **December 31, 2014;**

32 **(2) In addition to the request for proposals issued pursuant to**
33 **subparagraph (1), issue a request for proposals for 100 megawatts of**
34 **electric generating capacity from new renewable energy facilities on or**
35 **before December 31, 2015;**

36 **(3) In addition to the requests for proposals issued pursuant to**
37 **subparagraphs (1) and (2), issue a request for proposals for 100**
38 **megawatts of electric generating capacity from new renewable energy**
39 **facilities on or before December 31, 2016;**

40 **(4) Review each proposal received pursuant to subparagraphs (1),**
41 **(2) and (3) and identify those renewable energy facilities that will**
42 **provide:**

43 **(I) The greatest economic benefit to this State;**

44 **(II) The greatest opportunity for the creation of new jobs in**
45 **this State; and**

1 (III) The best value to customers of the electric utility;

2 (5) Negotiate, in good faith, to construct, acquire or contract with
3 the renewable energy facilities identified pursuant to subparagraph (4),
4 and file with the Commission an amendment to the plan each time the
5 utility wishes to construct, acquire or contract with such facilities; and

6 (6) Begin, on or before December 31, 2017, the construction or
7 acquisition of a portion of new renewable energy facilities with a
8 generating capacity of 50 megawatts to be owned and operated by the
9 electric utility, and complete construction of such facilities on or before
10 December 31, 2021.

11 ↪ For the purposes of this paragraph, the generating capacity of a
12 renewable energy facility must be determined by the nameplate capacity
13 of the facility.

14 ~~(c) For the electric utility to construct or acquire and own electric~~
15 ~~generating plants with an electric generating capacity of 550 megawatts,~~
16 ~~which must be constructed or acquired to replace, in an orderly and~~
17 ~~structured manner, the coal-fired electric generating capacity retired or~~
18 ~~eliminated pursuant to~~
19 ~~paragraph (a).~~

20 ~~—(d) If the plan includes the construction or acquisition of one or~~
21 ~~more natural gas fired electric generating plants, a strategy for the~~
22 ~~commercially reasonable physical procurement of fixed price natural~~
23 ~~gas by the electric utility.~~

24 ~~—(e) A plan for tracking and specifying the accounting treatment for~~
25 ~~all costs associated with the decommissioning of the coal-fired electric~~
26 ~~generating plants identified for retirement or elimination.~~

27 ↪ For the purposes of this subsection, an electric utility shall be deemed
28 to own, acquire, retire or eliminate only its pro rata portion of any
29 electric generating facility that is not wholly owned by the electric utility
30 and, except as otherwise provided in paragraph (b), “capacity” means an
31 amount of firm electric generating capacity used by the electric utility for
32 the purpose of preparing a plan filed with the Commission pursuant to
33 NRS 704.736 to 704.754, inclusive.

34 ~~13. In addition to the requirements for an emissions reduction and~~
35 ~~capacity replacement plan set forth in subsection 2, the plan may include~~
36 ~~additional utility facilities, electric generating plants, elements or~~
37 ~~programs necessary to carry out the plan, including, without limitation:~~

38 ~~—(a) The construction of natural gas pipelines necessary for the~~
39 ~~operation of any new natural gas fired electric generating plants~~
40 ~~included in the plan;~~

41 ~~—(b) Entering into contracts for the transportation of natural gas~~
42 ~~necessary for the operation of any natural gas fired electric generating~~
43 ~~plants included in the plan; and~~

~~1 (c) The construction of transmission lines and related infrastructure
2 necessary for the operation or interconnection of any electric generating
3 plants included in the plan.~~

4 Sec. 8. (Deleted by amendment.)

5 Sec. 9. *An electric utility shall, upon the completion of construction
6 or acquisition of any electric generating plant or other facility
7 constructed or acquired pursuant to an emissions reduction and capacity
8 replacement plan accepted by the Commission pursuant to NRS 704.751,
9 begin recording in a regulatory asset ~~with carrying charges,~~ an
10 amount that reflects a return on the electric utility's investment in the
11 facility, depreciation of the utility's investment in the facility and the cost
12 of operating and maintaining the facility. An electric utility may, upon
13 approval of the Commission, record such amount with carrying charges.*

14 Sec. 10. *1. To ensure the remediation and, when possible, the
15 reuse of any site used for the production of electricity from a coal-fired
16 electric generating plant in this State, the Division of Environmental
17 Protection of the State Department of Conservation and Natural
18 Resources has exclusive jurisdiction to supervise and regulate the
19 remediation of such sites, including, without limitation, exclusive
20 authority to regulate and supervise the remediation of surface water and
21 groundwater and solid-waste disposal operations located at such a site.*

22 *2. The Division of Environmental Protection has exclusive
23 authority to regulate emissions from any electric generating plant
24 constructed on a site previously used for the production of electricity
25 from a coal-fired electric generating plant.*

26 Sec. 11. *If, in any general rate proceeding filed by an electric utility
27 before June 1, 2018, the utility includes a request for recovery of any
28 amount related to the implementation of an emissions reduction and
29 capacity replacement plan and recovery of such an amount would result
30 in an increase in the electric utility's total revenue requirement of more
31 than 5 percent, the utility must propose a method or mechanism by
32 which such excess may be mitigated. The Commission may accept or
33 reject such a rate method or mechanism. If the mitigation method or
34 mechanism is approved by the Commission, the utility shall record any
35 deferred revenue in a regulatory asset account and may calculate
36 carrying charges on the unamortized balance of the regulatory asset.*

37 Sec. 12. *1. An electric utility shall file with the Commission an
38 amendment to the utility's emissions reduction and capacity replacement
39 plan each time the utility requests approval and acceptance by the
40 Commission of any contract with a new renewable energy facility as the
41 result of a request for proposals pursuant to the current emissions
42 reduction and capacity replacement plan. The Commission may approve
43 and accept the renewable energy facility if the Commission determines
44 that:*

1 (a) *The facility is a renewable energy system as defined in NRS*
2 *704.7815; and*
3 (b) *The terms and conditions of the contract are just and reasonable*
4 *and satisfy the capacity requirements set forth in subsection 2 of section*
5 *7 of this act.*
6 2. *In considering a contract pursuant to subsection 1, the*
7 *Commission shall, in addition to considering the cost to customers of the*
8 *electric utility, give consideration to those contracts or renewable energy*
9 *facilities that will provide:*
10 (a) *The greatest economic benefit to this State;*
11 (b) *The greatest opportunity for the creation of new jobs in this State;*
12 *and*
13 (c) *The best value to customers of the electric utility.*
14 **Sec. 12.5.** *If the Commission deems inadequate any portion of an*
15 *emissions reduction and capacity replacement plan or any amendment to*
16 *the plan, the Commission may recommend to the electric utility a*
17 *modification of that portion of the plan or amendment, and the electric*
18 *utility may:*
19 1. *Accept the modification; or*
20 2. *Withdraw the proposed plan or amendment.*
21 **Sec. 13.** *The Commission shall adopt any regulations necessary to*
22 *carry out the provisions of sections 2 to 13, inclusive, of this act.*
23 **Sec. 14.** (Deleted by amendment.)
24 **Sec. 15.** NRS 704.110 is hereby amended to read as follows:
25 704.110 Except as otherwise provided in NRS 704.075 and
26 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the
27 Commission pursuant to NRS 704.095 or 704.097:
28 1. If a public utility files with the Commission an application to make
29 changes in any schedule, including, without limitation, changes that will
30 result in a discontinuance, modification or restriction of service, the
31 Commission shall investigate the propriety of the proposed changes to
32 determine whether to approve or disapprove the proposed changes. If an
33 electric utility files such an application and the application is a general rate
34 application or an annual deferred energy accounting adjustment
35 application, the Consumer's Advocate shall be deemed a party of record.
36 2. Except as otherwise provided in subsection 3, if a public utility
37 files with the Commission an application to make changes in any schedule,
38 the Commission shall, not later than 210 days after the date on which the
39 application is filed, issue a written order approving or disapproving, in
40 whole or in part, the proposed changes.
41 3. If a public utility files with the Commission a general rate
42 application, the public utility shall submit with its application a statement
43 showing the recorded results of revenues, expenses, investments and costs
44 of capital for its most recent 12 months for which data were available
45 when the application was prepared. Except as otherwise provided in

1 subsection 4, in determining whether to approve or disapprove any
2 increased rates, the Commission shall consider evidence in support of the
3 increased rates based upon actual recorded results of operations for the
4 same 12 months, adjusted for increased revenues, any increased
5 investment in facilities, increased expenses for depreciation, certain other
6 operating expenses as approved by the Commission and changes in the
7 costs of securities which are known and are measurable with reasonable
8 accuracy at the time of filing and which will become effective within 6
9 months after the last month of those 12 months, but the public utility shall
10 not place into effect any increased rates until the changes have been
11 experienced and certified by the public utility to the Commission and the
12 Commission has approved the increased rates. The Commission shall also
13 consider evidence supporting expenses for depreciation, calculated on an
14 annual basis, applicable to major components of the public utility's plant
15 placed into service during the recorded test period or the period for
16 certification as set forth in the application. Adjustments to revenues,
17 operating expenses and costs of securities must be calculated on an annual
18 basis. Within 90 days after the date on which the certification required by
19 this subsection is filed with the Commission, or within the period set forth
20 in subsection 2, whichever time is longer, the Commission shall make such
21 order in reference to the increased rates as is required by this chapter. The
22 following public utilities shall each file a general rate application pursuant
23 to this subsection based on the following schedule:

24 (a) An electric utility that primarily serves less densely populated
25 counties shall file a general rate application not later than 5 p.m. on or
26 before the first Monday in June 2010, and at least once every 36 months
27 thereafter.

28 (b) An electric utility that primarily serves densely populated counties
29 shall file a general rate application not later than 5 p.m. on or before the
30 first Monday in June 2011, and at least once every 36 months thereafter.

31 (c) A public utility that furnishes water for municipal, industrial or
32 domestic purposes or services for the disposal of sewage, or both, which
33 had an annual gross operating revenue of \$2,000,000 or more for at least 1
34 year during the immediately preceding 3 years and which had not filed a
35 general rate application with the Commission on or after July 1, 2005, shall
36 file a general rate application on or before June 30, 2008, and at least once
37 every 36 months thereafter unless waived by the Commission pursuant to
38 standards adopted by regulation of the Commission. If a public utility
39 furnishes both water and services for the disposal of sewage, its annual
40 gross operating revenue for each service must be considered separately for
41 determining whether the public utility meets the requirements of this
42 paragraph for either service.

43 (d) A public utility that furnishes water for municipal, industrial or
44 domestic purposes or services for the disposal of sewage, or both, which
45 had an annual gross operating revenue of \$2,000,000 or more for at least 1

1 year during the immediately preceding 3 years and which had filed a
2 general rate application with the Commission on or after July 1, 2005, shall
3 file a general rate application on or before June 30, 2009, and at least once
4 every 36 months thereafter unless waived by the Commission pursuant to
5 standards adopted by regulation of the Commission. If a public utility
6 furnishes both water and services for the disposal of sewage, its annual
7 gross operating revenue for each service must be considered separately for
8 determining whether the public utility meets the requirements of this
9 paragraph for either service.

10 ↪ The Commission shall adopt regulations setting forth standards for
11 waivers pursuant to paragraphs (c) and (d) and for including the costs
12 incurred by the public utility in preparing and presenting the general rate
13 application before the effective date of any change in rates.

14 4. In addition to submitting the statement required pursuant to
15 subsection 3, a public utility may submit with its general rate application a
16 statement showing the effects, on an annualized basis, of all expected
17 changes in circumstances. If such a statement is filed, it must include all
18 increases and decreases in revenue and expenses which may occur within
19 210 days after the date on which its general rate application is filed with
20 the Commission if such expected changes in circumstances are reasonably
21 known and are measurable with reasonable accuracy. If a public utility
22 submits such a statement, the public utility has the burden of proving that
23 the expected changes in circumstances set forth in the statement are
24 reasonably known and are measurable with reasonable accuracy. The
25 Commission shall consider expected changes in circumstances to be
26 reasonably known and measurable with reasonable accuracy if the
27 expected changes in circumstances consist of specific and identifiable
28 events or programs rather than general trends, patterns or developments,
29 have an objectively high probability of occurring to the degree, in the
30 amount and at the time expected, are primarily measurable by recorded or
31 verifiable revenues and expenses and are easily and objectively calculated,
32 with the calculation of the expected changes relying only secondarily on
33 estimates, forecasts, projections or budgets. If the Commission determines
34 that the public utility has met its burden of proof:

35 (a) The Commission shall consider the statement submitted pursuant to
36 this subsection and evidence relevant to the statement, including all
37 reasonable projected or forecasted offsets in revenue and expenses that are
38 directly attributable to or associated with the expected changes in
39 circumstances under consideration, in addition to the statement required
40 pursuant to subsection 3 as evidence in establishing just and reasonable
41 rates for the public utility; and

42 (b) The public utility is not required to file with the Commission the
43 certification that would otherwise be required pursuant to subsection 3.

44 5. If a public utility files with the Commission an application to make
45 changes in any schedule and the Commission does not issue a final written

1 order regarding the proposed changes within the time required by this
2 section, the proposed changes shall be deemed to be approved by the
3 Commission.

4 6. If a public utility files with the Commission a general rate
5 application, the public utility shall not file with the Commission another
6 general rate application until all pending general rate applications filed by
7 that public utility have been decided by the Commission unless, after
8 application and hearing, the Commission determines that a substantial
9 financial emergency would exist if the public utility is not permitted to file
10 another general rate application sooner. The provisions of this subsection
11 do not prohibit the public utility from filing with the Commission, while a
12 general rate application is pending, an application to recover the increased
13 cost of purchased fuel, purchased power, or natural gas purchased for
14 resale pursuant to subsection 7, a quarterly rate adjustment pursuant to
15 subsection 8 or 10, any information relating to deferred accounting
16 requirements pursuant to NRS 704.185 or an annual deferred energy
17 accounting adjustment application pursuant to NRS 704.187, if the public
18 utility is otherwise authorized to so file by those provisions.

19 7. A public utility may file an application to recover the increased
20 cost of purchased fuel, purchased power, or natural gas purchased for
21 resale once every 30 days. The provisions of this subsection do not apply
22 to:

23 (a) An electric utility which is required to adjust its rates on a quarterly
24 basis pursuant to subsection 10; or

25 (b) A public utility which purchases natural gas for resale and which
26 adjusts its rates on a quarterly basis pursuant to subsection 8.

27 8. A public utility which purchases natural gas for resale must request
28 approval from the Commission to adjust its rates on a quarterly basis
29 between annual rate adjustment applications based on changes in the
30 public utility's recorded costs of natural gas purchased for resale. A public
31 utility which purchases natural gas for resale and which adjusts its rates on
32 a quarterly basis may request approval from the Commission to make
33 quarterly adjustments to its deferred energy accounting adjustment. The
34 Commission shall approve or deny such a request not later than 120 days
35 after the application is filed with the Commission. The Commission may
36 approve the request if the Commission finds that approval of the request is
37 in the public interest. If the Commission approves a request to make
38 quarterly adjustments to the deferred energy accounting adjustment of a
39 public utility pursuant to this subsection, any quarterly adjustment to the
40 deferred energy accounting adjustment must not exceed 2.5 cents per
41 therm of natural gas. If the balance of the public utility's deferred account
42 varies by less than 5 percent from the public utility's annual recorded costs
43 of natural gas which are used to calculate quarterly rate adjustments, the
44 deferred energy accounting adjustment must be set to zero cents per therm
45 of natural gas.

1 9. If the Commission approves a request to make any rate adjustments
2 on a quarterly basis pursuant to subsection 8:

3 (a) The public utility shall file written notice with the Commission
4 before the public utility makes a quarterly rate adjustment. A quarterly rate
5 adjustment is not subject to the requirements for notice and a hearing
6 pursuant to NRS 703.320 or the requirements for a consumer session
7 pursuant to subsection 1 of NRS 704.069.

8 (b) The public utility shall provide written notice of each quarterly rate
9 adjustment to its customers by including the written notice with a
10 customer's regular monthly bill. The public utility shall begin providing
11 such written notice to its customers not later than 30 days after the date on
12 which the public utility files its written notice with the Commission
13 pursuant to paragraph (a). The written notice that is included with a
14 customer's regular monthly bill:

15 (1) Must be printed separately on fluorescent-colored paper and
16 must not be attached to the pages of the bill; and

17 (2) Must include the following:

18 (I) The total amount of the increase or decrease in the public
19 utility's revenues from the rate adjustment, stated in dollars and as a
20 percentage;

21 (II) The amount of the monthly increase or decrease in charges
22 for each class of customer or class of service, stated in dollars and as a
23 percentage;

24 (III) A statement that customers may send written comments or
25 protests regarding the rate adjustment to the Commission;

26 (IV) A statement that the transactions and recorded costs of
27 natural gas which are the basis for any quarterly rate adjustment will be
28 reviewed for reasonableness and prudence in the next proceeding held by
29 the Commission to review the annual rate adjustment application pursuant
30 to paragraph (d); and

31 (V) Any other information required by the Commission.

32 (c) The public utility shall file an annual rate adjustment application
33 with the Commission. The annual rate adjustment application is subject to
34 the requirements for notice and a hearing pursuant to NRS 703.320 and the
35 requirements for a consumer session pursuant to subsection 1 of NRS
36 704.069.

37 (d) The proceeding regarding the annual rate adjustment application
38 must include a review of each quarterly rate adjustment and the
39 transactions and recorded costs of natural gas included in each quarterly
40 filing and the annual rate adjustment application. There is no presumption
41 of reasonableness or prudence for any quarterly rate adjustment or for any
42 transactions or recorded costs of natural gas included in any quarterly rate
43 adjustment or the annual rate adjustment application, and the public utility
44 has the burden of proving reasonableness and prudence in the proceeding.

1 (e) The Commission shall not allow the public utility to recover any
2 recorded costs of natural gas which were the result of any practice or
3 transaction that was unreasonable or was undertaken, managed or
4 performed imprudently by the public utility, and the Commission shall
5 order the public utility to adjust its rates if the Commission determines that
6 any recorded costs of natural gas included in any quarterly rate adjustment
7 or the annual rate adjustment application were not reasonable or prudent.

8 10. An electric utility shall adjust its rates on a quarterly basis based
9 on changes in the electric utility's recorded costs of purchased fuel or
10 purchased power. In addition to adjusting its rates on a quarterly basis, an
11 electric utility may request approval from the Commission to make
12 quarterly adjustments to its deferred energy accounting adjustment. The
13 Commission shall approve or deny such a request not later than 120 days
14 after the application is filed with the Commission. The Commission may
15 approve the request if the Commission finds that approval of the request is
16 in the public interest. If the Commission approves a request to make
17 quarterly adjustments to the deferred energy accounting adjustment of an
18 electric utility pursuant to this subsection, any quarterly adjustment to the
19 deferred energy accounting adjustment must not exceed 0.25 cents per
20 kilowatt-hour of electricity. If the balance of the electric utility's deferred
21 account varies by less than 5 percent from the electric utility's annual
22 recorded costs for purchased fuel or purchased power which are used to
23 calculate quarterly rate adjustments, the deferred energy accounting
24 adjustment must be set to zero cents per kilowatt-hour of electricity.

25 11. A quarterly rate adjustment filed pursuant to subsection 10 is
26 subject to the following requirements:

27 (a) The electric utility shall file written notice with the Commission on
28 or before August 15, 2007, and every quarter thereafter of the quarterly
29 rate adjustment to be made by the electric utility for the following quarter.
30 The first quarterly rate adjustment by the electric utility will take effect on
31 October 1, 2007, and each subsequent quarterly rate adjustment will take
32 effect every quarter thereafter. The first quarterly adjustment to a deferred
33 energy accounting adjustment must be made pursuant to an order issued by
34 the Commission approving the application of an electric utility to make
35 quarterly adjustments to its deferred energy accounting adjustment. A
36 quarterly rate adjustment is not subject to the requirements for notice and a
37 hearing pursuant to NRS 703.320 or the requirements for a consumer
38 session pursuant to subsection 1 of NRS 704.069.

39 (b) The electric utility shall provide written notice of each quarterly
40 rate adjustment to its customers by including the written notice with a
41 customer's regular monthly bill. The electric utility shall begin providing
42 such written notice to its customers not later than 30 days after the date on
43 which the electric utility files a written notice with the Commission
44 pursuant to paragraph (a). The written notice that is included with a
45 customer's regular monthly bill:

1 (1) Must be printed separately on fluorescent-colored paper and
2 must not be attached to the pages of the bill; and

3 (2) Must include the following:

4 (I) The total amount of the increase or decrease in the electric
5 utility's revenues from the rate adjustment, stated in dollars and as a
6 percentage;

7 (II) The amount of the monthly increase or decrease in charges
8 for each class of customer or class of service, stated in dollars and as a
9 percentage;

10 (III) A statement that customers may send written comments or
11 protests regarding the rate adjustment to the Commission;

12 (IV) A statement that the transactions and recorded costs of
13 purchased fuel or purchased power which are the basis for any quarterly
14 rate adjustment will be reviewed for reasonableness and prudence in the
15 next proceeding held by the Commission to review the annual deferred
16 energy accounting adjustment application pursuant to paragraph (d); and

17 (V) Any other information required by the Commission.

18 (c) The electric utility shall file an annual deferred energy accounting
19 adjustment application pursuant to NRS 704.187 with the Commission.
20 The annual deferred energy accounting adjustment application is subject to
21 the requirements for notice and a hearing pursuant to NRS 703.320 and the
22 requirements for a consumer session pursuant to subsection 1 of NRS
23 704.069.

24 (d) The proceeding regarding the annual deferred energy accounting
25 adjustment application must include a review of each quarterly rate
26 adjustment and the transactions and recorded costs of purchased fuel and
27 purchased power included in each quarterly filing and the annual deferred
28 energy accounting adjustment application. There is no presumption of
29 reasonableness or prudence for any quarterly rate adjustment or for any
30 transactions or recorded costs of purchased fuel and purchased power
31 included in any quarterly rate adjustment or the annual deferred energy
32 accounting adjustment application, and the electric utility has the burden of
33 proving reasonableness and prudence in the proceeding.

34 (e) The Commission shall not allow the electric utility to recover any
35 recorded costs of purchased fuel and purchased power which were the
36 result of any practice or transaction that was unreasonable or was
37 undertaken, managed or performed imprudently by the electric utility, and
38 the Commission shall order the electric utility to adjust its rates if the
39 Commission determines that any recorded costs of purchased fuel and
40 purchased power included in any quarterly rate adjustment or the annual
41 deferred energy accounting adjustment application were not reasonable or
42 prudent.

43 12. If an electric utility files an annual deferred energy accounting
44 adjustment application pursuant to subsection 11 and NRS 704.187 while a
45 general rate application is pending, the electric utility shall:

1 (a) Submit with its annual deferred energy accounting adjustment
2 application information relating to the cost of service and rate design; and

3 (b) Supplement its general rate application with the same information,
4 if such information was not submitted with the general rate application.

5 13. A utility facility identified in a 3-year plan submitted pursuant to
6 NRS 704.741 and accepted by the Commission for acquisition or
7 construction pursuant to NRS 704.751 and the regulations adopted
8 pursuant thereto , *or the retirement or elimination of a utility facility*
9 *identified in an emissions reduction and capacity replacement plan*
10 *submitted pursuant to section 7 of this act and accepted by the*
11 *Commission for retirement or elimination pursuant to NRS 704.751 and*
12 *the regulations adopted pursuant thereto*, shall be deemed to be a prudent
13 investment. The utility may recover all just and reasonable costs of
14 planning and constructing , *or retiring or eliminating, as applicable*, such
15 a facility.

16 14. In regard to any rate or schedule approved or disapproved
17 pursuant to this section, the Commission may, after a hearing:

18 (a) Upon the request of the utility, approve a new rate but delay the
19 implementation of that new rate:

20 (1) Until a date determined by the Commission; and

21 (2) Under conditions as determined by the Commission, including,
22 without limitation, a requirement that interest charges be included in the
23 collection of the new rate; and

24 (b) Authorize a utility to implement a reduced rate for low-income
25 residential customers.

26 15. The Commission may, upon request and for good cause shown,
27 permit a public utility which purchases natural gas for resale or an electric
28 utility to make a quarterly adjustment to its deferred energy accounting
29 adjustment in excess of the maximum allowable adjustment pursuant to
30 subsection 8 or 10.

31 16. A public utility which purchases natural gas for resale or an
32 electric utility that makes quarterly adjustments to its deferred energy
33 accounting adjustment pursuant to subsection 8 or 10 may submit to the
34 Commission for approval an application to discontinue making quarterly
35 adjustments to its deferred energy accounting adjustment and to
36 subsequently make annual adjustments to its deferred energy accounting
37 adjustment. The Commission may approve an application submitted
38 pursuant to this subsection if the Commission finds that approval of the
39 application is in the public interest.

40 17. As used in this section:

41 (a) "Deferred energy accounting adjustment" means the rate of a public
42 utility which purchases natural gas for resale or an electric utility that is
43 calculated by dividing the balance of a deferred account during a specified
44 period by the total therms or kilowatt-hours which have been sold in the
45 geographical area to which the rate applies during the specified period.

1 (b) "Electric utility" has the meaning ascribed to it in
2 NRS 704.187.

3 (c) "Electric utility that primarily serves densely populated counties"
4 means an electric utility that, with regard to the provision of electric
5 service, derives more of its annual gross operating revenue in this State
6 from customers located in counties whose population is 700,000 or more
7 than it does from customers located in counties whose population is less
8 than 700,000.

9 (d) "Electric utility that primarily serves less densely populated
10 counties" means an electric utility that, with regard to the provision of
11 electric service, derives more of its annual gross operating revenue in this
12 State from customers located in counties whose population is less than
13 700,000 than it does from customers located in counties whose population
14 is 700,000 or more.

15 **Sec. 16.** NRS 704.746 is hereby amended to read as follows:

16 704.746 1. After a utility has filed its plan pursuant to NRS
17 704.741, the Commission shall convene a public hearing on the adequacy
18 of the plan.

19 2. The Commission shall determine the parties to the public hearing
20 on the adequacy of the plan. A person or governmental entity may petition
21 the Commission for leave to intervene as a party. The Commission must
22 grant a petition to intervene as a party in the hearing if the person or entity
23 has relevant material evidence to provide concerning the adequacy of the
24 plan. The Commission may limit participation of an intervener in the
25 hearing to avoid duplication and may prohibit continued participation in
26 the hearing by an intervener if the Commission determines that continued
27 participation will unduly broaden the issues, will not provide additional
28 relevant material evidence or is not necessary to further the public interest.

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

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

33 (a) The forecast requirements of the utility are based on substantially
34 accurate data and an adequate method of forecasting.

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

39 (c) The plan adequately demonstrates the economic, environmental and
40 other benefits to this State and to the customers of the utility, associated
41 with the following possible measures and sources of supply:

- 42 (1) Improvements in energy efficiency;
43 (2) Pooling of power;
44 (3) Purchases of power from neighboring states or countries;
45 (4) Facilities that operate on solar or geothermal energy or wind;

1 (5) Facilities that operate on the principle of cogeneration or
2 hydrogeneration;

3 (6) Other generation facilities; and

4 (7) Other transmission facilities.

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

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

9 (b) Are consistent with the provisions of this section; ~~land~~

10 (c) Provide levels of service that are adequate and reliable ~~+~~; and

11 *(d) Provide the greatest opportunity for the creation of new jobs in
12 this State.*

13 6. The Commission shall:

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

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

18 7. The Commission shall:

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

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

26 *8. The Commission shall, after a hearing, review and accept or
27 modify an emissions reduction and capacity replacement plan which
28 includes each element required by section 7 of this act. In considering
29 whether to accept or modify an emissions reduction and capacity
30 replacement plan, the Commission shall consider:*

31 *(a) The cost to the customers of the electric utility to implement the
32 plan;*

33 *(b) Whether the plan provides the greatest economic benefit to this
34 State;*

35 *(c) Whether the plan provides the greatest opportunities for the
36 creation of new jobs in this State; and*

37 *(d) Whether the plan represents the best value to the customers of the
38 electric utility.*

39 **Sec. 17.** NRS 704.751 is hereby amended to read as follows:

40 704.751 1. After a utility has filed the plan required pursuant to
41 NRS 704.741, the Commission shall issue an order accepting the plan as
42 filed or specifying any portions of the plan it deems to be inadequate:

43 (a) Within 135 days for any portion of the plan relating to the energy
44 supply plan for the utility for the 3 years covered by the plan; and

1 (b) Within 180 days for all portions of the plan not described in
2 paragraph (a).

3 2. If a utility files an amendment to a plan, the Commission shall
4 issue an order accepting the amendment as filed or specifying any portions
5 of the amendment it deems to be inadequate ~~within~~ :

6 (a) *Within 135 days ~~to~~ after the filing of the amendment ~~to~~ ; or*

7 (b) *Within 180 days after the filing of the amendment for all portions*
8 *of the amendment which contain an element of the emissions reduction*
9 *and capacity replacement plan.*

10 3. All prudent and reasonable expenditures made to develop the
11 utility's plan, including environmental, engineering and other studies, must
12 be recovered from the rates charged to the utility's customers.

13 4. The Commission may accept a transmission plan submitted
14 pursuant to subsection 4 of NRS 704.741 for a renewable energy zone if
15 the Commission determines that the construction or expansion of
16 transmission facilities would facilitate the utility meeting the portfolio
17 standard, as defined in NRS 704.7805.

18 5. The Commission shall adopt regulations establishing the criteria
19 for determining the adequacy of a transmission plan submitted pursuant to
20 subsection 4 of NRS 704.741.

21 ~~16. Any order issued by the Commission accepting an element of an~~
22 ~~emissions reduction and capacity replacement plan must include~~
23 ~~provisions authorizing the electric utility to construct or acquire and own~~
24 ~~electric generating plants necessary to meet the capacity amounts~~
25 ~~approved in, and carry out the provisions of, the plan. As used in this~~
26 ~~subsection, "capacity" means an amount of firm electric generating~~
27 ~~capacity used by the electric utility for the purpose of preparing a plan~~
28 ~~filed with the Commission pursuant to NRS 704.736 to 704.754,~~
29 ~~inclusive.~~

30 **Sec. 18.** NRS 704.7588 is hereby amended to read as follows:

31 704.7588 Except as otherwise provided in NRS 704.7591 ~~to~~ *and*
32 *sections 2 to 13, inclusive, of this act:*

33 1. Before July 1, 2003, an electric utility shall not dispose of a
34 generation asset.

35 2. On or after July 1, 2003, an electric utility shall not dispose of a
36 generation asset unless, before the disposal, the Commission approves the
37 disposal by a written order issued in accordance with the provisions of this
38 section.

39 3. Not sooner than January 1, 2003, an electric utility may file with
40 the Commission an application to dispose of a generation asset on or after
41 July 1, 2003. If an electric utility files such an application, the Commission
42 shall not approve the application unless the Commission finds that the
43 disposal of the generation asset will be in the public interest. The
44 Commission shall issue a written order approving or disapproving the
45 application. The Commission may base its approval of the application

1 upon such terms, conditions or modifications as the Commission deems
2 appropriate.

3 4. If an electric utility files an application to dispose of a generation
4 asset, the Consumer's Advocate shall be deemed a party of record.

5 5. If the Commission approves an application to dispose of a
6 generation asset before July 1, 2003, the order of the Commission
7 approving the application:

8 (a) May not become effective sooner than July 1, 2003;

9 (b) Does not create any vested rights before the effective date of the
10 order; and

11 (c) For the purposes of NRS 703.373, shall be deemed a final decision
12 on the date on which the order is issued by the Commission.

13 **Sec. 19.** NRS 444.495 is hereby amended to read as follows:

14 444.495 "Solid waste management authority" means:

15 1. ~~The~~ *Except as otherwise provided in subsection 2, the* district
16 board of health in any area in which a health district has been created
17 pursuant to NRS 439.362 or 439.370 and in any area over which the board
18 has authority pursuant to an interlocal agreement, if the board has adopted
19 all regulations that are necessary to carry out the provisions of NRS
20 444.440 to 444.620, inclusive.

21 2. In all other areas of the State ~~it~~ *and pursuant to section 10 of this*
22 *act, at any site previously used for the production of electricity from a*
23 *coal-fired electric generating plant in this State,* the Division of
24 Environmental Protection of the State Department of Conservation and
25 Natural Resources.

26 **Sec. 20.** NRS 445B.500 is hereby amended to read as follows:

27 445B.500 1. Except as otherwise provided in this section and in
28 NRS 445B.310 ~~it~~ *and section 10 of this act:*

29 (a) The district board of health, county board of health or board of
30 county commissioners in each county whose population is 100,000 or
31 more shall establish a program for the control of air pollution and
32 administer the program within its jurisdiction unless superseded.

33 (b) The program:

34 (1) Must include, without limitation, standards for the control of
35 emissions, emergency procedures and variance procedures established by
36 ordinance or local regulation which are equivalent to or stricter than those
37 established by statute or state regulation;

38 (2) May, in a county whose population is 700,000 or more, include
39 requirements for the creation, receipt and exchange for consideration of
40 credits to reduce and control air contaminants in accordance with NRS
41 445B.508; and

42 (3) Must provide for adequate administration, enforcement,
43 financing and staff.

44 (c) The district board of health, county board of health or board of
45 county commissioners is designated as the air pollution control agency of

1 the county for the purposes of NRS 445B.100 to 445B.640, inclusive, and
2 the Federal Act insofar as it pertains to local programs, and that agency is
3 authorized to take all action necessary to secure for the county the benefits
4 of the Federal Act.

5 (d) Powers and responsibilities provided for in NRS 445B.210,
6 445B.240 to 445B.470, inclusive, 445B.560, 445B.570, 445B.580 and
7 445B.640 are binding upon and inure to the benefit of local air pollution
8 control authorities within their jurisdiction.

9 2. The local air pollution control board shall carry out all provisions
10 of NRS 445B.215 with the exception that notices of public hearings must
11 be given in any newspaper, qualified pursuant to the provisions of chapter
12 238 of NRS, once a week for 3 weeks. The notice must specify with
13 particularity the reasons for the proposed regulations and provide other
14 informative details. NRS 445B.215 does not apply to the adoption of
15 existing regulations upon transfer of authority as provided in NRS
16 445B.610.

17 3. In a county whose population is 700,000 or more, the local air
18 pollution control board may delegate to an independent hearing officer or
19 hearing board its authority to determine violations and levy administrative
20 penalties for violations of the provisions of NRS 445B.100 to 445B.450,
21 inclusive, and 445B.500 to 445B.640, inclusive, or any regulation adopted
22 pursuant to those sections. If such a delegation is made, 17.5 percent of
23 any penalty collected must be deposited in the county treasury in an
24 account to be administered by the local air pollution control board to a
25 maximum of \$17,500 per year. The money in the account may only be
26 used to defray the administrative expenses incurred by the local air
27 pollution control board in enforcing the provisions of NRS 445B.100 to
28 445B.640, inclusive. The remainder of the penalty must be deposited in the
29 county school district fund of the county where the violation occurred and
30 must be accounted for separately in the fund. A school district may spend
31 the money received pursuant to this section only in accordance with an
32 annual spending plan that is approved by the local air pollution control
33 board and shall submit an annual report to that board detailing the
34 expenditures of the school district under the plan. A local air pollution
35 control board shall approve an annual spending plan if the proposed
36 expenditures set forth in the plan are reasonable and limited to:

37 (a) Programs of education on topics relating to air quality; and

38 (b) Projects to improve air quality, including, without limitation, the
39 purchase and installation of equipment to retrofit school buses of the
40 school district to use biodiesel, compressed natural gas or a similar fuel
41 formulated to reduce emissions from the amount of emissions produced by
42 the use of traditional fuels such as gasoline and diesel fuel,

43 ↪ which are consistent with the state implementation plan adopted by this
44 State pursuant to 42 U.S.C. §§ 7410 and 7502.

1 4. Any county whose population is less than 100,000 or any city may
2 meet the requirements of this section for administration and enforcement
3 through cooperative or interlocal agreement with one or more other
4 counties, or through agreement with the State, or may establish its own
5 program for the control of air pollution. If the county establishes such a
6 program, it is subject to the approval of the Commission.

7 5. No district board of health, county board of health or board of
8 county commissioners may adopt any regulation or establish a compliance
9 schedule, variance order or other enforcement action relating to the control
10 of emissions from plants which generate electricity by using steam
11 produced by the burning of fossil fuel.

12 6. As used in this section, "plants which generate electricity by using
13 steam produced by the burning of fossil fuel" means plants that burn fossil
14 fuels in a boiler to produce steam for the production of electricity. The
15 term does not include any plant which uses technology for a simple or
16 combined cycle combustion turbine, regardless of whether the plant
17 includes duct burners.

18 **Sec. 21.** (Deleted by amendment.)

19 **Sec. 21.5.** The amendatory provisions of this act do not prohibit an
20 electric utility, as defined in section 4 of this act, from requesting pursuant
21 to NRS 704.736 to 704.751, inclusive, or the Public Utilities Commission
22 of Nevada from authorizing, the issuance by the electric utility of requests
23 for proposals for renewable energy facilities in addition to any requests for
24 proposals necessary to carry out the provisions of paragraph (b) of
25 subsection 2 of section 7 of this act, but the electric utility must
26 demonstrate that the issuance of any such request for proposals for
27 renewable energy facilities complies with the requirements of NRS
28 704.7801 to 704.7828, inclusive.

29 **Sec. 22.** This act becomes effective upon passage and approval.

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