

## Amendments to NRS 704B

### 1. The Legislature finds that:

(a) The cost of power plays a fundamental role in the economic activity of all businesses,

(b) Nevada must compete with other states to ensure that its power offerings are sufficiently competitive to attract more business,

(c) Nationally, power markets have changed dramatically, allowing other states, independent power producers and independent power suppliers to offer lower, more competitive power prices which directly affects Nevada's economic appeal for future growth,

(d) NRS 704B is in need of revision to ensure that it reflects Nevada's willingness to allow customers to access alternate sources of power while providing incentives for the reduction of power costs in Nevada,

(e) The need to promote competitive energy pricing to ensure that Nevada based businesses and industries are able to thrive in the increasingly competitive energy market is urgent.

To carry out the public policy declared in NRS 704B, it is necessary that the following changes be made to NRS 704B.

## CHAPTER 704B - PROVIDERS OF NEW ELECTRIC RESOURCES

### GENERAL PROVISIONS

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NRS 704B.010 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in [NRS 704B.020](#) to [704B.140](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by [2001, 3223](#); A [2003, 1260](#))

NRS 704B.020 "Ancillary services" defined. "Ancillary services" means those generation services that:

1. Are necessary to support the transmission of energy and capacity from resources to loads while maintaining reliable operation of the transmission system of the electric utility; and
2. Are defined and established in applicable transmission tariffs on file with the Federal Energy Regulatory Commission.

(Added to NRS by [2001, 3223](#))

NRS 704B.030 “Calendar quarter” defined. “Calendar quarter” means each period of 3 consecutive calendar months ending on March 31, June 30, September 30 and December 31 in each calendar year.

(Added to NRS by [2001, 3223](#))

NRS 704B.040 “Commission” defined. “Commission” means the Public Utilities Commission of Nevada.

(Added to NRS by [2001, 3223](#))

NRS 704B.045 “Consumer’s Advocate” defined. “Consumer’s Advocate” means the Consumer’s Advocate of the Bureau of Consumer Protection in the Office of the Attorney General.

(Added to NRS by [2003, 1260](#))

NRS 704B.050 “Electric utility” defined.

1. “Electric utility” means any public utility or successor in interest that:

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

(b) Holds a certificate of public convenience and necessity issued or transferred pursuant to [chapter 704](#) of NRS; and

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

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

(Added to NRS by [2001, 3223](#))

NRS 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.

(Added to NRS by [2001, 3224](#); A [2011, 1312](#))

NRS 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.

(Added to NRS [2001, 3224](#); A [2011, 1312](#))

NRS 704B.080 “Eligible customer” defined. “Eligible customer” means an end-use customer which is:

1. A nongovernmental commercial or industrial end-use customer, that: ~~has~~

(a) receives electric service at one or more meters, premises or service locations which in the aggregate have an average annual load of 1 megawatt or more in the service territory of an electric utility, regardless of the geographic diversity or proximity of the meters, premises, or service locations within the service territory;

(b) declares the customer’s intent in writing to elect service as a 704B customer within the first twelve months of commencing service with the utility, regardless of the average annual load of the customer, in the which case there will be no cost to or fee imposed on the eligible customer for electing to take service as a 704B customer;

(c) the electric utility should reasonably expect will elect to take service as a 704B customer given the size of the anticipated load, or the nature or the type of the eligible customers business, in the which case there will be no cost to or fee imposed on the eligible customer for electing to take service as a 704B customer.

The rule and tariffs of an electric utility shall not be used to limit the ability of the nongovernmental commercial or industrial end-use customer to aggregate electric service at one or more meters, premises or service locations to achieve an average annual load of 1 megawatt.

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

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

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

(Added to NRS by [2001, 3224](#))

NRS 704B.090 “Energy” defined. “Energy” means electrical energy.



(Added to NRS by [2001, 3224](#))

NRS 704B.100 “Generation asset” defined. “Generation asset” means any plant, facility, equipment or system which is located within or outside this state and which converts nonelectrical energy into electrical energy or otherwise produces electrical energy.

(Added to NRS by NRS [2001, 3224](#))

NRS 704B.110 “New electric resource” defined. “New electric resource” means:

1. The energy, capacity or ancillary services and any increased or additional energy, capacity or ancillary services which are:

(a) Made available from a 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.

2. Any increased energy, capacity or ancillary services made available from a generation asset pursuant to an agreement described in [NRS 704B.260](#).

(Added to NRS by [2001, 3224](#))

NRS 704B.120 “Person” defined. “Person” means:

1. A natural person.

2. Any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or unincorporated organization.

3. A governmental entity other than:

(a) This state or an agency or instrumentality of this state; or

(b) A political subdivision of this state or an agency or instrumentality of a political subdivision of this state.

(Added to NRS by [2001, 3224](#))

NRS 704B.130 “Provider of new electric resources” and “provider” defined. “Provider of new electric resources” and “provider” mean a person who makes energy, capacity or ancillary services from a new electric resource available to an eligible customer.

(Added to NRS by [2001, 3224](#))



NRS 704B.140 “Time-of-use meter” defined. “Time-of-use meter” means a meter that:

1. Measures and records the electric demand, energy and power factor on 15-minute intervals; and
2. Is suitable for use with an electric demand of 1 megawatt or more.

(Added to NRS by [2001, 3225](#))

#### APPLICABILITY

NRS 704B.170 Effect of chapter on certain existing contracts; duties of electric utilities and assignees concerning certain existing contracts.

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.

(Added to NRS by [2001, 3225](#))

#### GENERAL POWERS AND DUTIES OF COMMISSION

NRS 704B.200 Regulations. The Commission shall adopt regulations to carry out and enforce the provisions of this chapter, to ensure that all customers that desire to elect 704B customer status are provided a fair and reasonable opportunity to do so.

(Added to NRS by [2001, 3230](#))

NRS 704B.210 Submission of report to Legislative Commission. 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 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.

(Added to NRS by [2001, 3230](#); A [2007, 549](#))

## DEVELOPMENT OF NEW ELECTRIC RESOURCES

NRS 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, the use of NRS 704B, and shall not exercise its regulatory authority in a manner that unnecessarily or unreasonably restricts, conditions or in any way 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.

(Added to NRS by [2001, 3225](#))

#### TRANSACTIONS WITH ELIGIBLE CUSTOMERS

NRS 704B.300 Authority of provider to sell energy, capacity or ancillary services; limitations; provider is not public utility because of transaction; jurisdiction of Commission; prohibition.

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:

(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 subject to the jurisdiction of the Commission except as otherwise provided in this chapter or by specific statute.

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.

(Added to NRS by [2001, 3226](#); A [2003, 1260](#))

NRS 704B.310 Application for approval of proposed transaction: Time for filing; contents; confidentiality of certain information; public notice and hearing; review by Commission; terms, conditions and payments as part of approval; time within which Commission must act.



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 not later than 180 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](#).

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

(a) 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 concerning the terms and conditions of the proposed transaction that is necessary for the Commission to evaluate the impact of the proposed transaction on customers and the public interest, including, without limitation, information concerning the duration of the proposed transaction and the amount of energy, capacity or ancillary services to be purchased from the provider; and

(d) Any other information required pursuant to the regulations adopted by the Commission.

3. ~~Except as otherwise provided in~~, The Commission shall not require the eligible customer or provider to disclose:

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

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

4. The Commission shall provide public notice of the application of the eligible customer and an opportunity for a hearing on the application in a manner that is consistent with the provisions of [NRS 703.320](#) and the regulations adopted by the Commission.

5. The Commission shall approve the application of the eligible customer unless the Commission finds that the proposed transaction:

(a) Will be contrary to the public interest; or

(b) Does not comply with the provisions of [NRS 704B.320](#), if those provisions apply to the proposed transaction.

6. In determining whether the proposed transaction will be contrary to the public interest, the utility has the burden to demonstrate and the Commission shall consider, without limitation:

(a) Whether the electric utility that has been providing electric service to the eligible customer will be burdened by increased costs as a result of the proposed transaction or whether any remaining customer of the electric utility will pay increased costs for electric service as a result of the proposed transaction; provided that in no event shall the Commission permit the anticipated rate of return, profit, or return on equity, or any other item that is not a direct cost to the utility to be deemed a "cost" for the purpose of this subsection or calculation of the impact fee;

(b) Whether the proposed transaction will impair system reliability or the ability of the electric utility to provide electric service to its remaining customers; and

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

—7.—7. Any party participating in the proceedings before the Commission may offer its alternative calculations or analyses to the Commission to rebut the information offered to the Commission by the utility in accordance with Section 6.

8. Any amount of monies obtained in excess of a public electric utility's authorized rate of return or return on equity as determined by the Commission, will be placed in a fund that shall be administered by the Commission for the purpose of assisting eligible customers who exercise their rights under NRS 704B. The Commission shall enact regulations that carry out the provisions of this section of the law and the Commission and the Office of the Attorney General's Bureau of Consumer Protection shall have full investigatory and enforcement authority necessary to ensure the public policy of this provision, namely that any eligible customer desiring to purchase energy, capacity and ancillary services from a provider of new electric resources be permitted to do so and that any and all overearnings by a public utility will be reclaimed to assist that purpose.

9. If the Commission approves the application of the eligible customer:

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

(b) The Commission shall order such terms, conditions and payments as the Commission deems necessary and appropriate to ensure that the proposed transaction will not be contrary to the public interest. 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

(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 of the annual assessment and any other tax, fee or assessment required by [NRS 704B.360](#).

**810.** If the Commission does not enter a final order on the application of the eligible customer within 150 days after the date on which the application was filed with the Commission:

(a) The application shall be deemed to be approved by the Commission; and

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

(Added to NRS by [2001, 3226](#); A [2003, 1261, 3031](#))

NRS 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 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 , 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 to , 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.~~

(Added to NRS by [2001, 3228](#); A [2003, 1263, 1877](#); [2005, 22nd Special Session, 86](#); [2007, 2161](#); [2009, 1001](#))

NRS 704B.325 Purchase of energy, capacity or ancillary services from alternative provider after approval of original transaction: Rights and obligations of eligible customers; expedited review by Commission; limited disclosure of certain information.

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 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.
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.

(Added to NRS by [2003, 1260](#); A [2007, 2162](#))

NRS 704B.330 Replacement of energy, capacity or ancillary services purchased from provider with energy, capacity or ancillary services purchased from electric utility; tariffs.

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.

(Added to NRS by [2001, 3229](#))

NRS 704B.340 Time-of-use meters: Requirements; installation; costs; limitations; number; use of other meters or equipment.

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. 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:

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

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

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

4. The provisions of this section do not prohibit:

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



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

(Added to NRS by [2001, 3229](#))

NRS 704B.350 Duty of electric utility to provide certain components of electric service; duty of Commission to establish just, reasonable and nondiscriminatory rates; effect of chapter on existing rights and requirements under federal and state law.

1. An electric utility shall provide all transmission, distribution, metering and other components of electric service that are necessary for a provider of new electric resources to sell energy, capacity and ancillary services to an eligible customer pursuant to the provisions of this chapter. An electric utility shall provide each such component of electric service pursuant to the tariffs and service agreements filed with and approved by the appropriate regulatory authorities having jurisdiction over each such component of electric service.

2. For each such component of electric service that is within the jurisdiction of the Commission, the Commission shall establish just, reasonable and nondiscriminatory rates.

3. The provisions of this chapter do not enlarge or expand any existing rights under federal law or create any other rights with regard to the transmission system of the electric utility.

4. When providing service pursuant to this chapter, an electric utility is subject to all applicable statutes and regulations of this State and the United States.

(Added to NRS by [2001, 3230](#))

NRS 704B.360 Payment of taxes, fees and assessments by eligible customers; billing requirements; disciplinary action for failure to comply.

1. If the Commission approves an application that is filed pursuant to [NRS 704B.310](#) or a request that is filed pursuant to [NRS 704B.325](#), the Commission shall order the eligible customer to:

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

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

(c) Remit any tax, fee or assessment collected pursuant to paragraph (b) to the applicable governmental entity.

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

3. If an eligible customer to whom an order is issued pursuant to subsection 1 thereafter purchases energy, capacity or ancillary services from an alternative provider pursuant to [NRS 704B.325](#) without obtaining the approval of the Commission, the order issued pursuant to subsection 1 continues to apply to the eligible customer.

4. Upon petition by a governmental entity to which a tax, fee or assessment must be remitted pursuant to this section, the Commission may limit, suspend or revoke any order issued to an eligible customer by the Commission pursuant to [NRS 704B.310](#) and [704B.320](#) if the Commission, after providing an appropriate notice and hearing, determines that the eligible customer has failed to pay the tax, fee or assessment.

NRS 704B.370 Investigation regarding the expansion of the definition of eligible customer.

1. As soon as practicable after the effective date of this act, the Legislature via a board of consisting of 2 legislators, 3 private sector individuals and 1 representative from the power utility and 1 from the Commission, called an Energy Board, organized and authorized by the Governor's Office of Economic Development, will investigate expanding the definition of eligible customer to include all other electric utility customers in the state, with the intent of causing such an expansion. This investigation should include without limitation an evaluation of the comparable price of energy available from a source other than from the incumbent utilities, the feasibility of expanding the definition of eligible customers to include residential customers and communities, the economic benefit to the state of such an expansion, the costs and benefits to the electric utility customers in the state, and the process and timing that would be required to achieve such expansion.
2. The Energy Board will also evaluate the benefit of the public utilities not proceeding with construction of additional generation assets, even if required by statute, as eligible customers exercise their rights under this chapter to contract for generation from another source.
3. The investigation by the Energy Board may include soliciting testimony from each electric utility in this State, the Regulatory Operations Staff of the Commission, the Office of the Attorney General's Bureau of Consumer Protection and any other interested party. The Energy Board shall draw upon the experience of other jurisdictions who have successfully implemented the purchase of energy, capacity or ancillary services by utility customers from an entity other than the incumbent utilities.
4. On or before August 1, 2016, the Energy Board shall prepare a written report identifying how the definition of eligible customer could be expanded, as supported by the Commission's findings and recommendations from the investigatory docket.

and submit the written report to the Director of the Legislative Counsel Bureau for transmittal to the 79<sup>th</sup> Session of the Nevada Legislature.

5. If the Energy Board deems the expansion of the definition of eligible customers in the best interest of the State, the Commission is hereby authorized to expand the definition of eligible customer prior to the 79<sup>th</sup> Session of the Nevada Legislature, to begin accepting applications of eligible customers.

-(Added to NRS by [2003, 3031](#))