

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R117-19

1. A clear and concise explanation of the need for the adopted regulation.

The regulation amends Nevada Administrative Code (“NAC”) Chapter 704 and implements Senate Bill No. 154 (SB 154) of 2019 which requires the Commission to adopt regulations authorizing a public utility which purchases natural gas for resale to engage in renewable natural gas (“RNG”) activities and to recover the reasonable and prudent costs associated with such activities; requires public utilities which purchase natural gas for resale to attempt to incorporate RNG in its gas supply portfolio; and provides other matters properly relating thereto.

Section two requires a public utility to seek a determination of prudence with respect to an RNG activity in a general rate case and provides for the issuance of a written order authorizing a public utility to make certain purchases of natural gas. Section two provides for the Commission to issue a written order prospectively authorizing a public utility that applies for the approval of such purchases to make any such purchase without the Commission’s separate review and approval of each purchase. Section two also provides that the approval of a natural gas activity does not constitute a determination of prudence for the purposes of the rates charged by the utility; instead, it requires a public utility whose application to engage in an RNG activity is approved to seek a determination of prudence with respect to the proposed RNG activity in a general rate application filed after the approval.

Section three requires the utility to include in its informational report of such a utility an update on the efforts of the utility to incorporate RNG into its gas supply portfolio.

Section four makes a conforming change to indicate the placement of sections two and three in the NAC.

2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

(a) Copies of the proposed regulation, notice of intent to act upon the regulation and notice of workshop and hearing were sent by U.S. mail and electronic mail to persons who were known to have an interest in the subjects of noticing and interventions. These documents were also made available at the website of the Commission, <http://puc.nv.gov>, mailed to all county libraries in Nevada, published in the following newspapers:

Ely Times
Las Vegas Review Journal
Reno Gazette Journal
Tonopah Times-Bonanza

and posted at the following locations:

Public Utilities Commission
1150 East William Street
Carson City, Nevada 89701

Public Utilities Commission
9075 West Diablo Drive, Suite 250
Las Vegas, Nevada 89148

(b) The Attorney General’s Bureau of Consumer Protection (“BCP”), Sierra Pacific Power Company d/b/a NV Energy (“SPPC”), the Regulatory Operations Staff of the Commission (“Staff”) and Southwest Gas Corporation (“SWG”) filed comments and participated in the workshop and hearing held pursuant to NRS 233B.061. All workshop and hearing participants supported the proposed regulation. However, BCP did not support the timeline for application review in the regulation. BCP filed comments regarding the application review timelines in Section two and stated that it supports a 210-day timeline, rather than the regulation’s proposed 180-day timeline. (BCP March 27, 2020, Comments at 1-2). Staff, SWG, and SPPC support the 180-day timeline as laid out in the regulation.

(c) Copies of the transcripts of the proceedings are available for review at the offices of the Commission, 1150 East William Street, Carson City, Nevada 89701 and 9075 West Diablo Drive, Suite 250, Las Vegas, Nevada 89148.

3. The number of persons who:

- (a) Attended the April 3, 2020, Hearing: 4**
- (b) Testified at the April 3, 2020, Hearing: 4**
- (c) Submitted written comments: 4**

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:

- (a) Name;**
- (b) Telephone number;**
- (c) Business address;**
- (d) Business telephone number;**
- (e) Electronic mail address; and**
- (f) Name of entity or organization represented.**

Paul Stuhff, Esq.
David Chairez
T: (702) 486-3490
8945 West Russell Road, Suite 204
Las Vegas, Nevada 89148-1226
pstuhff@ag.nv.gov
dchairez@ag.nv.gov
Attorney General’s Bureau of Consumer Protection

Douglas Brooks, Esq.
T: (775) 473-6998
6226 West Sahara Avenue
Las Vegas, Nevada 89151
dbrooks@nvenergy.com
Sierra Pacific Power Company d/b/a NV Energy

Eric Petrozino, Esq.
T: (775) 684-6125
1150 East William Street
Carson City, Nevada 89448
epetrozino@puc.nv.gov
Regulatory Operations Staff of the Commission

Andrew Hall, Esq.
T: (702) 876-3227
5241 Spring Mountain Road
Las Vegas, Nevada 89150
Ahall@swgas.com
Southwest Gas Corporation

5. A description of how comments were solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses in the same manner as they were solicited from the public.

The summary may be obtained as instructed in the response to question 2(c).

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation presented at the April 3, 2020, hearing was adopted by the Commission without changing the language from the Legislative Counsel Bureau Draft Regulations dated January 10, 2020, because all workshop and hearing participants agreed on the near-consensus proposed language. As noted above, BCP did not support the timeline for application review in the regulation. BCP filed comments regarding the application review timelines in Section two and stated that it supports a 210-day timeline, rather than the regulation's proposed 180-day timeline. (BCP March 27, 2020, Comments at 1-2). Staff, SWG, and SPPC support the 180-day timeline as laid out in the regulation.

Prior to adoption, the Commission held two formal workshops and one informal workshop (October 24, 2019) in which the interested participants worked amongst themselves and provided consensus language, areas of disagreement, draft regulations and status updates to the Commission. Comments were solicited from interested participants from June 13, 2019, until March 27, 2020.

7. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include: both adverse and beneficial effects, and both immediate and long-term effects.

(a) Estimated economic effect on the businesses which they are to regulate.

Immediate Adverse Effect:

The regulation does not impose any immediate adverse economic effect on the businesses the regulation is to regulate; however, the proposed regulation's filing and reporting requirements are additional administrative burdens on gas utilities.

Immediate Beneficial Effects:

The regulation does not impose any immediate beneficial economic effect; however, a gas utility's potential to earn a rate of return on infrastructure necessary to engage in RNG activities could be considered a direct immediate benefit of the proposed regulation, as the regulation provides the administrative avenue for a gas utility to engage in such activities.

Long-Term Adverse Effects:

The proposed regulation does not impose any long-term adverse economic effect. Additional administrative burdens should be minimal as the utility will file updates regarding efforts to incorporate RNG in its supply portfolio in existing annual filings. The utility's risk of not recovering its capital investment in an RNG activity is diminished given the utility's opportunity to recover costs provided by SB 154 and the proposed regulation.

Long-Term Beneficial Effects:

The proposed regulation will not have any direct long-term beneficial effect; however, a gas utility's potential to earn a rate of return on infrastructure necessary to engage in an RNG activity could be considered a long-term beneficial effect of the proposed regulation, as the regulation provides the administrative avenue for a gas utility to engage in such activities. Also, the gas utility may recover reasonable and prudent costs associated with Commission-approved RNG activities.

(b) Estimated economic effect on the public which they are to regulate.

The regulation does not regulate the public and directly affects public utilities that purchase natural gas for resale.

Immediate Adverse Effect:

Indirectly, costs associated with a utility's RNG activities, if prudently occurred, could pass through to customers in rates and any immediate adverse effect will be minimal.

Additionally, any rate increase would likely be insignificant because costs would be passed through incrementally and the scale of the RNG goals outlined in SB 154 is limited.

Immediate Beneficial Effects:

There are no immediate beneficial effects to the public.

Long-Term Adverse Effects:

Indirectly, costs associated with RNG activities could be passed through to consumers (in part), however, any long-term adverse effects will be minimal.

Long-Term Beneficial Effects:

Indirectly, the public will not incur any long-term beneficial effects. Any indirect long-term beneficial effect will be a result of SB 154, not the proposed regulation.

8. The estimated cost to the agency for enforcement of the proposed regulation:

Any costs associated with the regulation are considered incremental in nature. Review of the RNG targets will occur as part of existing informational report reviews and annual rate adjustment filings, which already require docketing and Staff review. The costs to enforce or administer the proposed regulation would not be notably greater than what the Commission currently experiences.

9. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The regulation does not overlap any other State, governmental agency, or federal regulations.

10. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

N/A.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

N/A.

12. If the proposed regulation is likely to impose a direct and significant burden upon a small business or directly restrict the formation, operation or expansion of a small business, what methods did the agency use in determining the impact of the regulation on a small business?

Staff conducted a Delphi Method exercise to determine the impact of this proposed regulation on small businesses. The Delphi Method is a systematic, interactive, forecasting method based on independent inputs of selected experts. In this instance, the participants were members of Staff. Each participant in the exercise used their background and expertise to reflect upon and analyze the impact of the proposed regulation on small businesses. Based upon Staff's analysis, Staff recommended to the Commission that the Commission find that the proposed regulation will not impose a direct and significant economic burden on small businesses or directly restrict the formation, operation or expansion of a small business. The Commission accepted Staff's recommendation and found that the proposed regulation does not impose a direct or significant economic burden upon small businesses, nor does it directly restrict the formation, operation, or expansion of a small business, and therefore a small business impact statement pursuant to NRS

233B.0608(2) is not required. This finding was memorialized in an Order issued in Commission Docket No. 19-06006 on March 3, 2020.