

**PROPOSED REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA**

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**The following document is the initial draft regulation proposed
by the agency submitted on 06/27/2024**

**PROPOSED REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA**

Docket No. 23-07026

June 27, 2024

Explanation – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted

AUTHORITY:

A REGULATION to implement Assembly Bill 524 (2023).

Section 1. Chapter 704 of NAC is hereby amended by adding thereto a new section to read as follows:

NAC 704.900X “Amendment” defined. (NRS 703.025, 704.210, 704.741) “Amendment” means a modification to an approved action plan, including a modification to a generating resource’s or placeholder generating resource’s pricing, size, location, or timing in the action plan that is not a significant deviation from the approved action plan.

Section 2. Chapter 704 of NAC is hereby amended by adding thereto a new section to read as follows:

NAC 704.90XX “Firm Transmission” defined. (NRS 703.025, 704.210, 704.741) “Firm Transmission” means North American Electric Reliability Corporation priority 7 firm point-to-point transmission service from the source to the sink.

Section 3. Chapter 704 of NAC is hereby amended by adding thereto a new section to read as follows:

NAC 704.91XX “Open Position” defined. (NRS 703.025, 704.210, 704.741) “Open Position” means the difference between the utility’s forecasted system net peak demand (accounting for the utility’s planning reserve margin and any capacity reductions associated with net energy metering, demand response programs, demand side management programs, and any other program used to shift or reduce peak demand) and the planning capacity of available resources, either owned or under contract with the utility, at the time of the utility’s forecasted system net peak demand less reserves held for unbundled open access transmission tariff customers. Alternatively, demand response programs, demand side management programs, and/or any other program used to shift or reduce peak demand may be accounted for as supply resources and reflected in the planning capacity of available resources.

Section 4. NAC 704.9156 is hereby amended to read as follows:

NAC 704.9156 “Resource plan” defined. (NRS 703.025, 704.210, 704.741) “Resource plan” means the plan that a utility is required by NRS 704.741 to submit every third year *or more often if necessary* to the Commission, that consists of, and provides an integrated analysis of:

1. A load forecast;
2. A demand side plan;
3. A supply plan;
4. A financial plan;
5. An energy supply plan;
6. A distributed resources plan; and
7. An action plan.

Section 5. Chapter 704 of NAC is hereby amended by adding thereto a new section to read as follows:

NAC 704.91XX “Significant deviation from an approved action plan” defined. (NRS 703.025, 704.210, 704.741)

1. “Significant deviation from an approved action plan” means a material modification to an approved action plan that must be submitted pursuant to NRS 704.741 as part of a triennial plan, and includes, without limitation:

(a) The addition of one or more sources of supply totaling more than 70 megawatts of nameplate generating capacity that are not generating resources or placeholder generating resources in any scenario in the approved action plan;

(b) The removal of one or more sources of supply totaling more than 70 megawatts of nameplate generating capacity that are generating resources or placeholder generating resources in any scenario in the approved action plan;

(c) The addition of transmission infrastructure consisting of transmission lines capable of transmitting electricity at a voltage of 200 kilovolts or more and associated electrical substations;

(d) A material change to an approved distributed resources plan, including an approved transportation electrification plan, or demand side plan that adds a new program or alters the approved action plan budgets or expected energy savings by more than 30 percent;

(e) Any modification that results in a 5-percent or greater change in the 20-year present worth revenue requirement of the utility’s approved integrated resource plan;

(f) Any modification that results in a 5-percent or greater change in the costs associated with the utility’s approved action plan; or

(g) A material change to the underlying data used in the formation of the approved plan that affects the choice of generating resources or placeholder generating resources in any scenario in the approved action plan.

2. The above-enumerated material modifications do not encompass the addition of a renewable resource dedicated exclusively to a specific customer or group of customers and which will be paid for by these customers.

Section 6. NAC 704.9238 is hereby amended to read as follows:

NAC 704.9238 Deviation from ~~and amendment of~~ an approved distributed resources plan. (NRS 703.025, 704.210, 704.741)

1. Notwithstanding the approval of the Commission of the distributed resources plan of a utility, the utility may deviate from the approved distributed resources plan to the extent necessary

to respond adequately to any significant change in circumstances not contemplated by the distributed resources plan. A significant change in circumstances includes, without limitation:

- (a) A material change in net system, feeder or nodal customer load or demand;
- (b) A material difference between the estimated and actual locational net benefit results for any or all resources analyzed in the grid needs assessment;
- (c) A material difference between estimated and actual in-service dates or performance of the distributed resources analyzed and selected pursuant to the distributed resources plan; and
- (d) Any other circumstance that the utility demonstrates to the Commission warrants a deviation.

2. If the utility deviates from its approved distributed resources plan, the utility shall include *any deviations* in the *utility's next general* rate proceeding, *pursuant to NRS 704.110, seeking a prudence determination of the deviation and the just and reasonableness of the costs associated with the deviation.* ~~[in which costs associated with the deviation are first sought to be recovered a description and]~~ *In its request to recover the costs associated with the deviation, the utility shall include justification for the deviation, identify all alternatives considered, provide all supporting analyses, including any executable workpapers, relied upon to deviate from the approved distributed resources plan, and provide testimony supporting the deviation.*

~~[3. The utility may seek authority from the Commission to deviate prospectively from the distributed resources plan in an update filed pursuant to NAC 704.9239, or by filing an amendment to the distributed resources plan in accordance with subsection 4.~~

~~—4. An amendment to the distributed resources plan of a utility must contain:~~

- ~~—(a) A section that identifies the specific approvals requested by the utility in the amendment;~~
- ~~—(b) A section that specifies any changes in assumptions or data that have occurred since the utility's last resource plan was filed; and~~
- ~~—(c) As applicable, information required by NAC 704.9237.~~

~~—5. The Commission shall conduct its evaluation of the amendment of the distributed resources plan in accordance with subsection 5 of NAC 704.9494 and issue an order approving the amendment as filed, modifying the amendment or specifying any portions of the amendment that the Commission deems to be inadequate.]~~

(Added to NAC by Pub. Utilities Comm'n by R029-19, eff. 10-30-2019)

Section 7. NAC 704.9239 is hereby amended to read as follows:

NAC 704.9239 Update of distributed resources plan: Filing; requirements. (NRS 703.025, 704.210, 704.741)

1. Beginning in calendar year 2020, on or before September 1 of the first and second years after the action plan of a utility is filed, the utility shall file an update of the *approved* distributed resources plan that will be applicable for each year remaining in the period covered by the action plan *updating the progress of each program or non-wires alternative approved in the distributed resources plan, including the transportation electrification plan, for informational purposes only.*

2. ~~[The update of the distributed resources plan must comply with the requirements of NAC 704.9237.]~~ *The utility or any party of record may request a hearing on the distributed resources plan update, specifying in its request the reason the utility or party believes a hearing is required. Upon a finding of good cause, the Commission will order a hearing on the matter.*

(Added to NAC by Pub. Utilities Comm'n by R029-19, eff. 10-30-2019)

Section 8. NAC 704.9241 is hereby repealed.

~~**[NAC 704.9241—Update of distributed resources plan: Action by Commission. (NRS 703.025, 704.210, 704.741)**~~

~~—1. The Commission will conduct a hearing within 60 days after a utility files an update of its distributed resources plan pursuant to NAC 704.9239 and issue an order within 120 days after the filing of that update by the utility.~~

~~—2. The Commission will conduct its evaluation of the update of the distributed resources plan in accordance with subsection 5 of NAC 704.9494 and issue an order approving the update as filed, modifying the update or specifying any portions of the update that the Commission deems to be inadequate.~~

~~—(Added to NAC by Pub. Utilities Comm'n by R029-19, eff. 10-30-2019)]~~

Section 9. NAC 704.937 is hereby amended to read as follows:

NAC 704.937 Inclusion in supply plan of alternative plans and list of options for supply of capacity and electric energy; criteria for selection of options; comparison of and requirements for alternative plans; identification of preferred plan. (NRS 703.025, 704.210, 704.741)

1. A utility's supply plan must contain a diverse set of alternative plans which include a list of options for the supply of capacity and electric energy that includes a description of all existing and planned facilities for generation and transmission, existing and planned power purchases, and other resources available as options to the utility for the future supply of electric energy. The description must include the expected capacity of the facilities and resources for each year of the supply plan.

2. At least one alternative plan must be of low carbon intensity and include:

(a) The generation or acquisition of an amount of renewable energy greater than required by NRS 704.7821;

(b) Changes to the utility's existing fleet of resources for the generation of power;

(c) The application of technology that would significantly reduce emissions of carbon; or

(d) Any combination thereof.

3. At least one alternative plan must provide for the construction or acquisition of energy resources through contract or ownership to be placed into service to close an open position utilizing dedicated energy resources in this State and dedicated energy resources delivered through firm transmission. A significant share of the renewable energy facilities and energy storage systems included in the scenario must be owned by the utility.

4. For each alternative plan considered, the supply plan must include, without limitation, the information, analyses, and evaluations required by subsection 4 of NRS 704.741, as amended by AB 524. In addition, the following provisions apply:

(a) For purposes of complying with subsection 4 of NRS 704.741, as amended by AB 524, the definitions of "firm transmission" and "open position" in NAC 704.90XX and NAC 704.91XX of this section will apply.

(b) A future generating project for which approval is not specifically requested must be included as a placeholder resource if:

(1) An agreement is in place for the project;

(2) A land acquisition and/or permitting has been completed for the project; or

(3) The utility plans on seeking approval of the project in the three-year action plan period.

(c) The utility shall endeavor to identify and pursue, to the extent possible, any federal funding opportunities and tax credits available to the utility or third parties to mitigate or offset costs for the benefit of its customers and explain how those funds or tax credits mitigate or offset costs of the resource for the benefit of its customers.

(d) The evaluation of the impact that the implementation of the alternative plans will have on the rates charged to the customers of the utility provided pursuant to subsection 4 of NRS 704.741, as amended by AB 524, shall be provided by the utility, by year, for each year of the planning period. The rates shall be inclusive of costs associated with all projects, programs, including any public policy programs, and costs previously approved by the Commission and any federal funding and tax credits available to the utilities.

(e) For each alternative plan considered, the utility shall provide a copy of all executable workpapers supporting the alternative plan with all formulas and links intact and without any copied and pasted values in a cell unless the utility can identify and/or provide the original source of the value in executable format at the time of filing.

(f) For each alternative plan considered, the utility shall provide a thorough evaluation of the benefits and costs of each alternative plan considered.

~~[2]~~ 5. A utility shall identify the criteria it has used for the selection of its options for meeting the expected future demands for electric energy and shall explain how any conflicts among criteria are resolved.

~~[3]~~ 6. In comparing alternative plans containing different resource options, the utility shall calculate the present worth of future requirements for revenue for each alternative plan for the supply of power. A comparison of the present worth of future requirements for revenue for each alternative plan must be presented in the resource plan. As calculated pursuant to this subsection, the present worth of future requirements for revenue for each alternative plan must include, without limitation, a reasonable range of costs associated with emissions of carbon in the 20-year period of the resource plan as private costs to the utility.

~~[4]~~ 7. The utility shall calculate the present worth of societal costs for each alternative plan for the supply of power. The present worth of societal costs of a particular alternative plan must be determined by adding the environmental costs that are not internalized as private costs to the utility pursuant to subsection 3 to the present worth of future requirements for revenue. In calculating the present worth of societal costs for each alternative plan pursuant to this subsection, the utility shall include as environmental costs the utility's estimate of the level of environmental costs resulting from carbon dioxide emissions for that year and the social cost of carbon.

~~[5]~~ 8. For the purposes of subsection 4 and NAC 704.9215 and 704.9359, the social cost of carbon must be determined by subtracting the costs associated with emissions of carbon internalized as private costs to the utility pursuant to subsection 3 from the net present value of the future global economic costs resulting from the emission of each additional metric ton of carbon dioxide. The net present value of the future global economic costs resulting from the emission of an additional ton of carbon dioxide must be calculated using the best available science and

economics such as the analysis set forth in the “Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis” released by the Interagency Working Group on Social Cost of Greenhouse Gases in August 2016. This publication may be obtained, free of charge, at the Internet website https://obamawhitehouse.archives.gov/sites/default/files/omb/inforeg/scc_tsd_final_clean_8_26_16.pdf. The utility shall submit information supporting the method used by the utility to calculate the social cost of carbon.

~~{6}~~ 9. The utility shall consider for each alternative plan the mitigation of risk by means of:

- (a) Flexibility;
- (b) Diversity;
- (c) Reduced size of commitments;
- (d) Choice of projects that can be completed in short periods;
- (e) Displacement of fuel;
- (f) Reliability;
- (g) Selection of fuel and energy supply portfolios; and
- (h) Financial instruments or electricity products.

~~{7}~~ 10. The alternative plans of the utility must:

- (a) Provide adequate reliability;
- (b) Be within regulatory and financial constraints;
- (c) Meet the portfolio standard; and
- (d) Meet the requirements for environmental protection.

~~{8}~~ 11. The utility shall identify its preferred plan and fully justify its choice by setting forth the criteria that influenced the utility’s choice.

Section 10. NAC 704.9498 is hereby amended to read as follows:

NAC 704.9498 Report on progress of action plan: Filing; service; contents; form; hearing. (NRS 703.025, 704.210, 704.741)

1. Not earlier than 15 months and not later than 21 months after the date on which the utility files its action plan, the utility shall file a report on the progress of its action plan with the Commission and serve a copy of the progress report on all parties of record. The progress report must include:

(a) Information concerning the status of planned facilities approved by the Commission, including any cost or schedule variances;

(b) Information concerning the status of all programs for energy efficiency and conservation, including planned and achieved reductions in kilowatt-hours and reduction in demand in kilowatt-hours;

(c) A comparison of budgeted and actual costs for the entire action plan;

~~{(d)} An identification of and justification for any significant deviation from the approved action plan, including supporting information;~~

~~{(e)}~~ (d) An updated forecast of energy consumption and peak demand; and

~~{(f)}~~ (e) An updated table for loads and resources for the remaining years covered by the 20-year plan.

2. The progress report must be in the same form as the action plan and will be assigned a new docket number by the Commission.

3. The utility or any party of record may request a hearing on the progress report, specifying in its request the reason the utility or party believes a hearing is required. Upon a finding of good cause, the Commission will order a hearing on the matter.

Section 11. NAC 704.9503 is hereby amended to read as follows:

NAC 704.9503 Monitoring and amendment of action plan. (NRS 703.025, 704.210, 704.741, 704.7881)

1. Except as otherwise provided in NRS 704.871, a utility shall continually monitor its action plan and shall amend the plan before it submits its next action plan *if the utility seeks a change to a generating resource's or placeholder generating resource's pricing, size, location, or timing, that does not constitute a significant deviation from the approved action plan.* ~~[if any of the following circumstances exist:~~

~~(a) The utility anticipates submitting an application for a permit to construct a utility facility pursuant to NRS 704.820 to NRS 704.900, inclusive, which was not previously approved as part of the action plan.~~

~~(b) The utility makes a commitment for the acquisition or construction of a facility that was not previously approved as part of the action plan.~~

~~(c) The utility makes a commitment for a long-term purchased power obligation which was not previously approved as part of the action plan.~~

~~(d) The utility is unable to place a resource in service or secure a resource in accordance with the schedule for the resource that is included in the action plan approved by the Commission, and the modified schedule results in a significant deviation from the planned reserve margin for any period in the 3-year action plan.~~

~~(e) The utility makes a commitment for an option that was not available at the time the action plan was approved.~~

~~(f) The basic data used in the formation of the plan requires significant modification that affects the choice of a resource which was approved as part of the action plan.~~

~~2. The conditions under which an amendment is sought must be specifically set forth in the application for amendment.]~~

Section 12. NAC 704.9516 is hereby amended to read as follows:

NAC 704.9516 Contents of amendment to action plan. (NRS 703.025, 704.210, 704.741)

1. An amendment to an action plan submitted by a utility pursuant to NAC 704.9503 must contain:

(a) A section that identifies the items for which the utility is requesting specific approval, *the circumstances that create the need for the amendment, and why the items could not have been reasonably anticipated and included in the approved action plan;*

(b) A section that specifies any changes in assumptions or data that have occurred since the utility's last resource plan was filed;

(c) As applicable, information required in paragraphs (d) and (e) of subsection 1 of NAC 704.9489, and subsections 3 and 4 of NAC 704.9489;

(d) As applicable, data and information required pursuant to NAC 704.922 to 704.948, inclusive, necessary to facilitate an evaluation of the items specified pursuant to paragraph (a) for which the utility is requesting specific approval;

(e) A current peak demand forecast;

(f) A table indicating the current loads and resources ~~}; and~~

~~{(g) If the utility seeks an amendment related to a renewable energy contract or energy efficiency contract, information about the imputed debt mitigation.}~~

~~{2. For amendments submitted pursuant to paragraphs (a) and (f) of subsection 1 of NAC 704.9503, a utility shall file with the Commission the information required pursuant to paragraph (d) of subsection 1 of this section.}~~

Section 13. NAC 704.952 is hereby amended to read as follows:

NAC 704.952 Sessions for reviewing plans; procedure for resolving issues during sessions; summary of topics and conclusions; public meeting to provide overview of anticipated filing or amendment of resource plan. (NRS 703.025, 704.210, 704.741, 704.744)

1. A utility ~~{may}~~ *shall, ~~{schedule}~~ before filing a plan required by NRS 704.741 or an amendment to such a plan, schedule and conduct two consumer sessions ~~{for}~~ to review~~{ing}~~ the plan~~{s}~~ or amendment and provide~~{ing}~~ an opportunity for interested persons to:*

(a) Learn of progress by the utility in developing plans and amendments to plans;

(b) Determine whether key assumptions are being applied in a consistent and acceptable manner;

(c) Determine whether key results are reasonable; and

(d) Offer suggestions on other matters as appropriate.

2. The purpose of the first consumer session is to receive input on load forecast development, data inputs and assumptions, and plan development, as appropriate. Any written input and suggestions for utility consideration shall be provided by any interested person within ten business days of the completion of the consumer session.

3. The purpose of the second consumer session is to provide an opportunity for interested persons to learn about portfolios and programs evaluated, whether key results are reasonable, and whether key assumptions are being applied in a consistent and acceptable manner.

~~{2}~~ 4. If the utility, the Bureau of Consumer Protection in the Office of the Attorney General, the staff or any other person participating in the process cannot agree to schedule sessions for reviewing plans, any of those persons may petition the Commission to schedule the sessions.

~~{3}~~ 5. The parties involved in the review sessions may establish, at the beginning of the sessions, a procedure to resolve any technical issues that are discussed during the sessions.

~~{4}~~ 6. ~~{If review sessions are held pursuant to subsection 1, t}~~ *The utility shall prepare a ~~{brief}~~ summary of each consumer session held pursuant to subsection 1 and include the summary in the testimony of the utility in support of the plan or amendment to the plan. ~~{of the major topics on the agendas and the conclusions reached by the parties during the review sessions. The summary must be provided to the Commission in conjunction with testimony supporting the utility's plan.}~~*

~~{5}~~ 7. Not less than 4 months before filing a plan required by NRS 704.741, or within a reasonable period before filing an amendment to such a plan pursuant to NRS 704.751, the utility shall meet with staff, the personnel of the Bureau of Consumer Protection and any other interested persons to provide an overview of the plan or amendment.

~~[6]~~ 8. For each meeting held pursuant to *this section* ~~[subsection 5]~~, the utility shall prepare a *2-week advance* notice of the meeting which must include, without limitation, the date, time and location of the meeting and an explanation of the purpose of the meeting. The utility shall distribute the notice by:

- (a) Posting the notice on the Internet website of the utility;
- (b) Sending the notice via electronic mail to each person on the relevant service list maintained by the Commission; and
- (c) Providing the notice to staff of the Commission for publication on the Internet website of the Commission.

Chapter 703 Modifications:

Section 14. NAC 703.2207 is hereby amended to read as follows:

NAC 703.2207 Public utilities furnishing electricity, gas, or water or services for disposal of sewage: Notice of intent to file application for adjustments in rates. (NRS 703.025, 704.210)

1. A public utility that furnishes electricity, gas, or water or services for the disposal of sewage, or both, must provide written notice of its intent to file an application for adjustments in rates to:

- (a) The Assistant Secretary of the Commission;
- (b) The Regulatory Operations Staff; and
- (c) The Consumer's Advocate.

2. *For a public utility that furnishes electricity*, ~~[T]~~ the written notice must be filed at least ~~[60]~~ *160* days before the anticipated date for filing the application for adjustments in rates. *For all other public utilities*, ~~[T]~~ the written notice must be filed at least 60 days before the anticipated date for filing the application for adjustments in rates. If the public utility files the written notice, it is not required to file the application for adjustments in rates on the anticipated filing date or any time thereafter.

3. The written notice must contain a list of the components on which the public utility expects to base its application for adjustments in rates, including:

- (a) Cost of capital;
- (b) Depreciation;
- (c) Cost of service, including any study of the cost of service;
- (d) Design of the proposed rates; and
- (e) Any other material issues known at the time the notice is filed.

(Added to NAC by Pub. Service Comm'n, eff. 7-7-94; A by Pub. Utilities Comm'n by R043-08, 9-18-2008; R036-10, 12-16-2010)

Section 15. NAC 703.2209 is hereby amended to read as follows:

NAC 703.2209 Public utilities furnishing electricity, gas, or water or services for disposal of sewage: Meeting with Consumer's Advocate and Regulatory Operations Staff before filing application. (NRS 703.025, 704.210)

1. A public utility that furnishes ~~electricity,~~ gas, or water or services for the disposal of sewage, or both, which intends to file an application for adjustments in rates must meet with the Consumer's Advocate and the Regulatory Operations Staff at least 20 days before the anticipated date for filing the application for adjustments in rates.

2. A public utility that furnishes electricity, which intends to file an application for adjustments in rates, must meet with the Consumer's Advocate and the Regulatory Operations Staff at least 60 days before the anticipated date for filing the application for adjustments in rates.

~~2]~~ 3. At the meeting, the public utility shall provide updated information regarding the application for adjustments in rates, including:

- (a) Cost of capital;
- (b) Depreciation;
- (c) Cost of service, including any study of the cost of service;
- (d) Design of the proposed rate; and
- (e) Any other material issues known at the time of the meeting.

~~3]~~ 4. At the meeting, those persons in attendance shall:

(a) Develop guidelines for a preliminary plan for conducting audits. The guidelines must address all matters relating to the audit, including:

(1) The timing of the audits and any necessary meetings to coordinate audits conducted at the site, whether within or outside the State, by the Regulatory Operations Staff and specialized personnel from the public utility and the Bureau of Consumer Protection.

(2) The number of persons representing each interest who will participate in the audits.

(3) The facilities and the supplies that the auditors will need at the locations of the audits.

(b) Discuss a plan and schedule for discovery, and methods of minimizing the duplication of discovery requests.

(c) Discuss the use of agreements for the confidentiality of information.

(d) Discuss the review of computer models for data contained in the filing.

(e) Determine which items on the master document for the request of data must be provided on a computer disc or other computer media, and which items must be provided on paper.

(f) Discuss the need for and timing of future meetings, including:

(1) A conference between the public utility, the Regulatory Operations Staff and a representative of the Bureau of Consumer Protection to discuss the results of the audits.

(2) A mandatory settlement conference between all interests to the proceeding. The Regulatory Operations Staff shall convene the settlement conference at least 14 calendar days before the scheduled first day of the hearing on the application for adjustments in rates in accordance with a procedural schedule approved by the Commission.

(Added to NAC by Pub. Service Comm'n, eff. 7-7-94; A by Pub. Utilities Comm'n by R036-10, 12-16-2010)