

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R044-21

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

The regulation amends to sections of the Nevada Administrative Code (“NAC”) to make them fully consistent with the federal Public Utility Regulatory Policies Act (“PURPA”).

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 email 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 Public Utilities Commission of Nevada (“Commission”), <https://puc.nv.gov>, mailed to all county libraries in Nevada, published in the following newspapers:

Ely Times/Eureka Sentinel
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) Prior to the commencement of proceedings under Chapter 233B of the Nevada Revised Statutes (“NRS”), Nevada Cogeneration Associates #1 and #2 (“NCA”), Vote Solar, Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy (collectively “NV Energy”), and the Regulatory Operations Staff (“Staff”) of the Commission filed comments. Following commencement of NRS Chapter 233B proceedings, NV Energy and NCA filed comments. NV Energy opposed the modifications of the Legislative Counsel Bureau (“LCB”) that removed references to provisions of the Code of Federal Regulations; NV Energy stated that the removal of those references made the proposed regulation’s requirements vague. NCA did not object to any part of the proposed regulation that would amend existing regulations; however, NCA did argue that two existing paragraphs of NAC 704.9496 should be stricken.

(c) Copies of the transcripts of the proceedings are available for review at the offices of the PUCN, 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 each hearing:** 2
- (b) **Testified at each hearing:** 0
- (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.**

Justina Caviglia
NV Energy
6100 Neil Road
P.O. Box 10100
Reno, NV 89520
(775) 834-3551
jcaviglia@nvenergy.com

Donald Brookhyser
Buchalter
Counsel for Nevada Cogeneration Associates #1 and #2
55 Second Street, Suite 1700
San Francisco, CA 94105-3493
(503) 804-9800
dbrookhyser@buchalter.com

David Bender
Earthjustice
Counsel for Vote Solar
3916 Nakoma Road
Madison, WI 53711
(202) 667-4500

Shelly Cassity
Regulatory Operations Staff of the PUCN
9075 West Diablo Drive, #250
Las Vegas, NV 89148
(702) 486-7218
scassity@puc.nv.gov

5. A description of how comment was 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.

Prior to the commencement of proceedings under Chapter 233B of the Nevada Revised Statutes (“NRS”), Nevada Cogeneration Associates #1 and #2 (“NCA”), Vote Solar, Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy (collectively “NV Energy”), and the Regulatory Operations Staff (“Staff”) of the Commission filed comments. Following commencement of NRS Chapter 233B proceedings, NV Energy and NCA filed comments. NV Energy generally supported the proposed regulation, but it opposed the modifications of the Legislative Counsel Bureau (“LCB”) that removed references to provisions of the Code of Federal Regulations; NV Energy stated that the removal of those references made the proposed regulation’s requirements for data retention vague. NCA did not object to any part of the proposed regulation that would amend existing regulations; however, NCA did argue that two existing paragraphs of NAC 704.9496 should be stricken.

Comments may be accessed by searching the website of the Commission, <https://puc.nv.gov>, or by visiting the offices of the Commission, 1150 East William Street, Carson City, Nevada 89701, and 9075 West Diablo Drive, Suite 250, Las Vegas, Nevada 89148.

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 language, as returned from the LCB, was no different than federal regulations in requiring data retention, and NCA’s concerns about already existing language was beyond the scope of the notice of intent to act upon a regulation. The regulation language thus accomplished the purpose of the rulemaking.

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.

The regulation does not impose any economic effect on the businesses the regulation is to regulate.

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

The regulation does not impose any economic effect upon the public.

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

Any costs associated with the regulation are considered incremental in nature.

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 regulation of other State or governmental agencies. The regulation does require a utility to provide information by which rates may be set pursuant to 18 C.F.R. § 292.304. 18 C.F.R. § 292.304 is a federal regulation promulgated by the Federal Energy Regulatory Commission.

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

See the response to question 9 above.

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?

The Regulatory Operations Staff (“Staff”) of the Commission 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 his 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 Docket No. 18-12021 on May 10, 2022.