

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

**LCB File No. R124-01**

November 13, 2001

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

AUTHORITY: §§1-33, section 26.75 of Assembly Bill No. 661 of the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001, at page 3233 (NRS 702.170).

**Section 1.** Chapter 702 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 33, inclusive, of this regulation.

**Sec. 2.** *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 10, inclusive, of this regulation have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Calendar quarter” has the meaning ascribed to it in section 26.15 of Assembly Bill No. 661 of the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001, at page 3231 (NRS 702.020).*

**Sec. 4.** *“Commission” means the public utilities commission of Nevada.*

**Sec. 5.** *“Fund” has the meaning ascribed to it in section 26.25 of Assembly Bill No. 661 of the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001, at page 3231 (NRS 702.040).*

**Sec. 6.** *“Housing division” means the housing division of the department of business and industry.*

**Sec. 7.** *“Person” has the meaning ascribed to it in section 26.4 of Assembly Bill No. 661 of the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001, at page 3231 (NRS 702.070).*

**Sec. 8.** *“Retail customer” has the meaning ascribed to it in section 26.5 of Assembly Bill No. 661 of the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001, at page 3231 (NRS 702.090).*

**Sec. 9.** *“Universal energy charge” has the meaning ascribed to it in section 26.55 of Assembly Bill No. 661 of the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001, at page 3232 (NRS 702.100).*

**Sec. 10.** *“Welfare division” means the welfare division of the department of human resources.*

**Sec. 11.** *As used in sections 11 to 33, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 12, 13 and 14 of this regulation have the meanings ascribed to them in those sections.*

**Sec. 12.** *“Municipal utility” means a municipal utility that is required to collect the universal energy charge from retail customers pursuant to section 26.7 of Assembly Bill No. 661 of the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001, at page 3232 (NRS 702.160).*

**Sec. 13.** *“Public utility” means a public utility that is required to collect the universal energy charge from retail customers pursuant to section 26.7 of Assembly Bill No. 661 of the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001, at page 3232 (NRS 702.160).*

Sec. 14. *“Regulatory operations staff” means the regulatory operations staff of the commission.*

Sec. 15. 1. *For the purposes of section 26.7 of Assembly Bill No. 661 of the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001, at page 3232 (NRS 702.160), and sections 11 to 33, inclusive, of this regulation, “any therm of natural gas used as a source of energy to generate electricity” means any therm of natural gas that is:*

*(a) Delivered to an electric generating plant or unit; and*

*(b) Consumed to generate electricity at that plant or unit by being used as a source of energy for:*

*(1) An engine, turbine or other device which drives an electric generator; or*

*(2) A boiler, heat recovery steam generator or other device whose thermal output is used to generate electricity.*

FLUSH *The term does not include any therm of natural gas which is delivered to an electric generating plant or unit and which is consumed exclusively as a source of energy to support an activity other than the generation of electricity occurring at or adjacent to that plant or unit, including, without limitation, production of steam or thermal energy which is used exclusively in heating, cooling or industrial processes that do not generate electricity.*

*2. If a person both consumes therms of natural gas as a source of energy to generate electricity and consumes other therms of natural gas exclusively as a source of energy to support an activity other than the generation of electricity, the person shall apply to the commission for approval to use a methodology to allocate the therms of natural gas consumed by the person between:*

*(a) Those therms of natural gas consumed as a source of energy to generate electricity;  
and*

*(b) Those therms of natural gas consumed exclusively as a source of energy to support an activity other than the generation of electricity.*

**Sec. 16. 1.** *For the purposes of section 26.7 of Assembly Bill No. 661 of the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001, at page 3232 (NRS 702.160), and sections 11 to 33, inclusive, of this regulation, “any kilowatt-hour of electricity used in industries utilizing electrolytic-manufacturing processes” means any kilowatt-hour of electricity that is:*

*(a) Delivered to a manufacturing facility at which one or more electrolytic processes are used; and*

*(b) Actually consumed directly in the operation of the electrolytic processes at that manufacturing facility.*

**2.** *As used in this section:*

*(a) “Electrolytic process” means a process in which electricity is passed through an ionized solution or molten metallic salt to complete an electric circuit between two electrodes.*

*(b) “Manufacturing facility” means a factory or other physical location in which tangible personal property is created, produced or processed for the purpose of physically incorporating the tangible personal property into a product to be sold, including, without limitation, any operation which results in the creation or production of tangible personal property or which is a step in a process or series of operations resulting in the creation or production of tangible personal property. The term does not include any factory or other*

*physical location in which the activities constitute merely the repair or reconditioning of tangible personal property to refit it for the use for which it was originally produced.*

**Sec. 17. 1.** *For the purposes of section 26.7 of Assembly Bill No. 661 of the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001, at page 3232 (NRS 702.160), and sections 11 to 33, inclusive, of this regulation, “multiple retail customers under common ownership and control” means a combination of two or more retail customers in which a single person possesses:*

*(a) Directly or indirectly, a legal ownership interest of at least 5 percent in each of the retail customers; and*

*(b) Control over each of the retail customers.*

**2.** *As used in this section, “control” means the possession, direct or indirect, of the power and authority to direct the management and major policies of a retail customer, whether through ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services or otherwise, unless the power and authority is the result of an official position with or corporate office held by the retail customer. Mere management of or administrative authority over routine operations does not, without more, constitute control.*

**Sec. 18. 1.** *The United States or an agency or instrumentality of the United States is not required to pay the universal energy charge.*

**2.** *An Indian tribe, Indian band or group of Indians that is recognized by the United States as possessing a government-to-government relationship with the United States is not required to pay the universal energy charge.*

**3.** *An enrolled member of an Indian tribe, Indian band or group of Indians that is recognized by the United States as possessing a government-to-government relationship with*

*the United States is not required to pay the universal energy charge on any therm of natural gas or kilowatt-hour of electricity that is delivered to and consumed on the reserved lands of that Indian tribe, Indian band or group of Indians.*

**Sec. 19.** *1. In calculating the universal energy charge on each therm of natural gas, 3.30 mills equals \$0.0033.*

*2. In calculating the universal energy charge on each kilowatt-hour of electricity, 0.39 mills equals \$0.00039.*

**Sec. 20.** *1. The amount of the universal energy charge due from a retail customer must be based on the quantity of natural gas and the quantity of electricity as measured by a meter read on a date within the calendar quarter.*

*2. The bill from a public utility, municipal utility or other provider or transporter of natural gas or electricity is the primary evidence of the metered quantity of natural gas, the metered quantity of electricity and the date on which the meter was read.*

**Sec. 21.** *1. Except as otherwise provided in subsection 2, a public utility or municipal utility shall use the phrase “Universal Energy Charge” to set forth the universal energy charge as a separate item or entry on the bill of each retail customer as required by section 26.7 of Assembly Bill No. 661 of the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001, at page 3232 (NRS 702.160).*

*2. If it is not reasonably possible for a public utility or municipal utility to use the phrase “Universal Energy Charge” to set forth the universal energy charge as a separate item or entry on the bill of each retail customer, the public utility or municipal utility may apply to the commission for approval to use an alternative phrase.*

*Sec. 22. Any money remitted to the commission pursuant to sections 26.7 and 26.75 of Assembly Bill No. 661 of the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001, at pages 3232 and 3233, respectively (NRS 702.160 and 702.170), and sections 11 to 33, inclusive, of this regulation must be remitted to the commission by a money order, bank draft or check that is made payable to the commission.*

*Sec. 23. Not later than 30 calendar days after the end of each calendar quarter, each public utility and municipal utility shall:*

- 1. Complete a utility collection report on the appropriate form obtained from the commission;*
- 2. Submit the completed utility collection report to the commission; and*
- 3. Remit with the completed utility collection report the amount due from retail customers for the universal energy charge for that calendar quarter.*

*Sec. 24. 1. Except as otherwise provided in subsection 2, a public utility is required to pay the universal energy charge on any therm of natural gas or any kilowatt-hour of electricity that the public utility consumes in conducting its utility business.*

*2. A public utility is not required to pay the universal energy charge on:*

*(a) Any kilowatt-hour of electricity consumed by the public utility at an electric generating plant or unit.*

*(b) Any therm of natural gas consumed by the public utility at an electric generating plant or unit.*

*(c) Any therm of natural gas consumed by the public utility to directly support the delivery of natural gas to retail customers, including, without limitation, any therm of natural gas consumed by the public utility for pressure regulation.*

*3. Except as otherwise provided in section 26 of this regulation, not later than 30 calendar days after the end of each calendar quarter, a public utility that is required to pay the universal energy charge pursuant to this section shall:*

*(a) Complete a retail customer report on the appropriate form obtained from the commission;*

*(b) Submit the completed retail customer report to the commission; and*

*(c) Remit with the completed retail customer report the amount due from the public utility for the universal energy charge for that calendar quarter.*

**Sec. 25.** *Except as otherwise provided in section 26 of this regulation, not later than 30 calendar days after the end of each calendar quarter, each retail customer which does not use the distribution services of a public utility or municipal utility to acquire natural gas or electricity that is subject to the universal energy charge shall:*

*1. Complete a retail customer report on the appropriate form obtained from the commission;*

*2. Submit the completed retail customer report to the commission; and*

*3. Remit with the completed retail customer report the amount due from the retail customer for the universal energy charge for that calendar quarter.*

**Sec. 26.** *1. A single retail customer or multiple retail customers under common ownership and control may prepay in the amount of \$25,000 the maximum universal energy charge for any calendar quarter. To prepay the maximum universal energy charge for any calendar quarter, not later than 15 calendar days before the first day of the calendar quarter, the single retail customer or multiple retail customers under common ownership and control must:*



*(a) Complete a prepayment report on the appropriate form obtained from the commission;*  
*(b) Submit the completed prepayment report to the commission; and*  
*(c) Remit with the completed prepayment report the maximum universal energy charge in the amount of \$25,000.*

*2. If the single retail customer or multiple retail customers under common ownership and control prepay the maximum universal energy charge for the calendar quarter in accordance with this section:*

*(a) The commission will provide notice to each affected public utility or municipal utility and direct that each such utility not collect the universal energy charge from each such retail customer for that calendar quarter; and*

*(b) Each such retail customer:*

*(1) Is excused from further liability for the universal energy charge for that calendar quarter; and*

*(2) Is not entitled to a refund of any portion of the prepaid \$25,000 on the basis that the actual consumption of natural gas and electricity by the single retail customer or multiple retail customers under common ownership and control did not result in liability for the maximum universal energy charge for that calendar quarter.*

*3. If a single retail customer or multiple retail customers under common ownership and control have prepaid the maximum universal energy charge for the current calendar quarter but do not timely prepay the maximum universal energy charge for the next calendar quarter, the commission will provide notice to each affected public utility or municipal utility and direct that each such utility collect the universal energy charge from each such retail customer*

*beginning with the calendar quarter for which the maximum universal energy charge was not timely prepaid.*

*Sec. 27. 1. Except as otherwise provided in section 26 of this regulation, a single retail customer or multiple retail customers under common ownership and control that have paid the universal energy charge may:*

*(a) Request a refund of any amount paid for the universal energy charge which exceeds \$25,000 for a calendar quarter;*

*(b) Request a refund of any amount paid for the universal energy charge on:*

*(1) Any therm of natural gas used as a source of energy to generate electricity; or*

*(2) Any kilowatt-hour of electricity used in industries utilizing electrolytic-manufacturing processes; or*

*(c) Request a refund of the universal energy charge for any other lawful reason.*

*2. To request a refund pursuant to this section, not later than 90 calendar days after the end of the calendar quarter for which the refund is requested, the single retail customer or multiple retail customers under common ownership and control must:*

*(a) Complete a request for refund on the appropriate form obtained from the commission; and*

*(b) Submit the completed request for refund to the commission and include with the completed request for refund all the following:*

*(1) A statement setting forth the amount of the refund requested based upon quantities of natural gas and electricity billed during the calendar quarter.*

*(2) A statement setting forth all grounds upon which the request for refund is based.*

*(3) All evidence relied upon to support the request for refund, including copies of bills, documents and affidavits, evidence of full payment of bills and any other information or documentation requested by the commission.*

*(4) A signed release authorizing the commission or its regulatory operations staff to request and receive a payment history for the affected accounts for the relevant calendar quarter or calendar quarters from any public utility, municipal utility or other provider or transporter of natural gas or electricity.*

*(5) A statement, signed under penalty of perjury, that:*

*(I) The request for refund is made in good faith;*

*(II) The person submitting the request for refund is authorized to make the request for refund on behalf of the single retail customer or multiple retail customers under common ownership and control; and*

*(III) The request for refund does not duplicate or seek a refund on the same ground as or of the same payment as any previously submitted request for refund, unless the request for refund is expressly identified as an amendment of or otherwise relates directly to a previously submitted request for refund.*

*3. If a request for refund is submitted properly, the commission will:*

*(a) Review and make a determination on the request for refund;*

*(b) Certify the amount of the refund, if any; and*

*(c) Provide a written copy of its determination and any certification to:*

*(1) The person submitting the request for refund on behalf of the single retail customer or multiple retail customers under common ownership and control; and*

*(2) The welfare division to process payment of the refund, if any.*

*4. All refunds certified by the commission must be paid from the fund without interest.*

*Sec. 28. 1. A single retail customer or multiple retail customers under common ownership and control which claim that they are exempted from paying the universal energy charge may make a request for exemption.*

*2. To make a request for exemption, the single retail customer or multiple retail customers under common ownership and control must:*

*(a) Complete a request for exemption on the appropriate form obtained from the commission; and*

*(b) Submit the completed request for exemption to the commission and include with the completed request for exemption sufficient evidence, legal support and information to support the request for exemption.*

*3. The single retail customer or multiple retail customers under common ownership and control have the burden of proving that they are entitled to the exemption under Nevada law.*

*4. If a request for exemption is submitted properly, the commission will:*

*(a) Review and make a determination on the request for exemption as soon as practicable;*

*(b) Certify the exemption, if any; and*

*(c) Except as otherwise provided in this paragraph, at least 7 calendar days before the first day of the next calendar quarter, provide a written copy of its determination and any certification to:*

*(1) The person submitting the request for exemption on behalf of the single retail customer or multiple retail customers under common ownership and control; and*

*(2) Any public utility or municipal utility affected by the exemption, if certified.*

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*If the commission is unable to make a determination on the request for exemption or provide a written copy of its determination and any certification on the request for exemption at least 7 calendar days before the first day of the next calendar quarter, the commission will take those actions at least 7 calendar days before the first day of the calendar quarter immediately following the next calendar quarter.*

*5. If the commission certifies an exemption pursuant to this section, each affected public utility or municipal utility shall apply the exemption only to billings issued during calendar quarters following the calendar quarter in which the exemption is certified. The single retail customer or multiple retail customers under common ownership and control may request a refund pursuant to section 27 of this regulation of any amounts billed by a public utility or municipal utility during the calendar quarter in which the exemption is certified.*

*6. If the commission certifies an exemption, in whole or in part, for any therms of natural gas used as a source of energy to generate electricity or any kilowatt-hours of electricity used in industries utilizing electrolytic-manufacturing processes, each retail customer receiving the certified exemption is required to pay the universal energy charge on any therms of natural gas or kilowatt-hours of electricity consumed by the retail customer which are not subject to the certified exemption and which are not otherwise exempt from the universal energy charge for any other lawful reason.*

*7. If the nature or scope of the operation or business of any retail customer receiving a certified exemption changes in any material manner which may affect the nature or scope of the certified exemption, not later than 15 calendar days after the changes occur, the retail customer shall submit to the commission a written report identifying the nature and scope of*

*the changes. After receiving the written report, the commission will determine whether to reconsider the nature and scope of the certified exemption.*

*Sec. 29. 1. If a person submits to the commission a remittance, report, request for refund or request for exemption that is materially incomplete, erroneous, internally inconsistent or otherwise inadequate, the commission will:*

*(a) Hold the remittance or document without processing; and*

*(b) Provide notice of the deficiency to the person submitting the remittance or document and inform the person that the deficiency must be cured not later than 14 calendar days after the date on which the commission issues the notice or on or before the due date for the remittance or document, whichever is later.*

*2. If the person cures the deficiency within 14 calendar days after the date on which the commission issues the notice or on or before the due date for the remittance or document, whichever is later:*

*(a) The remittance or document shall be deemed to have been submitted properly to the commission as of its original date of submission; and*

*(b) The commission will process the remittance or document.*

*3. If the person does not cure the deficiency within 14 calendar days after the date on which the commission issues the notice or on or before the due date for the remittance or document, whichever is later:*

*(a) The remittance or document shall be deemed to have been submitted improperly and untimely to the commission;*

*(b) The commission will not process the remittance or document and, if appropriate, will return the remittance or document to the person; and*

*(c) The commission may initiate against the person any enforcement or collection action pursuant to law that the commission deems appropriate.*

**Sec. 30.** *1. A person may submit a remittance, report, request for refund or request for exemption to the commission:*

*(a) By personal delivery to an office of the commission;*

*(b) By use of the United States mail;*

*(c) By use of a messenger or delivery service; or*

*(d) If approved by the commission in advance, by use of an electronic transfer or other electronic means.*

*2. Any remittance or document submitted to the commission by use of the United States mail shall be deemed to have been received by the commission on:*

*(a) The date shown on the post office cancellation mark stamped on the envelope containing the remittance or document or, if the remittance or document is submitted by certified or registered mail, the date shown on the post office receipt acknowledging the use of certified or registered mail, whichever date is earlier; or*

*(b) If the information described in paragraph (a) is not available, the date the remittance or document was mailed, if the person submitting the remittance or document presents proof satisfactory to the commission which establishes that the remittance or document was deposited timely in the United States mail, postage prepaid, and was properly addressed to the commission.*

*3. Any remittance or document submitted to the commission by use of a messenger or delivery service shall be deemed to have been received by the commission on the date the remittance or document was tendered to the messenger or delivery service.*

**Sec. 31. 1.** *A copy of any form that is required to be used pursuant to sections 11 to 33, inclusive, of this regulation may be:*

*(a) Obtained at the Internet website of the commission at <http://www.puc.state.nv.us>;*

*(b) Obtained at an office of the commission; or*

*(c) Obtained from the commission by a written request sent to the principal office of the commission in Carson City, Nevada, by United States mail or other messenger or delivery service.*

**2.** *The available forms include:*

*(a) Utility collection report;*

*(b) Retail customer report;*

*(c) Prepayment report;*

*(d) Request for refund; and*

*(e) Request for exemption.*

**Sec. 32. 1.** *The commission delegates to the regulatory operations staff the authority and duty to do all things necessary and proper to carry out and administer the provisions of sections 26.7 and 26.75 of Assembly Bill No. 661 of the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001, at pages 3232 and 3233, respectively (NRS 702.160 and 702.170), and sections 11 to 33, inclusive, of this regulation, including, without limitation, the authority and duty to:*

*(a) Receive, accept and process any remittance, report, request for refund or request for exemption submitted to the commission; and*

*(b) Investigate, make a determination on and certify, as appropriate, any request for refund or request for exemption submitted to the commission.*



*2. A person may seek review or reconsideration of any decision, action or inaction of the regulatory operations staff by filing a petition with the commission.*

**Sec. 33.** *1. On its own initiative or at the direction of the commission, the regulatory operations staff may conduct an audit or investigation of any public utility, municipal utility or retail customer that is required to collect or remit money for the universal energy charge.*

*2. After completing an audit or investigation, the regulatory operations staff shall report its findings to the commission and recommend any enforcement or collection action.*