

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

LCB File No. R144-01

December 7, 2001

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

AUTHORITY: §§1-34, NRS 703.025 and 704.210 and sections 3 to 12, inclusive, of Senate Bill No. 372 of the 71st session of the Nevada Legislature, chapter 519, Statutes of Nevada 2001, at pages 2526 to 2530, inclusive, as amended by Assembly Bill No. 661 of the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001 (NRS 704.7801 to 704.7828, inclusive); §§35 and 36, NRS 703.025, 704.210 and 704.736 to 704.751, inclusive.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 34, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 34, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 20, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. 1. *“Biogas” means methane and other gases produced from the decomposition of organic matter.*

2. The term includes, without limitation:

(a) Landfill gases.

(b) Wastewater treatment gases.

(c) Industrial digester gases.

Sec. 4. 1. *“Biomass” has the meaning ascribed to it in section 38 of Assembly Bill No. 661 of the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001, at page 3242 (NRS 704.007).*

2. The term includes, without limitation:

(a) Biogas.

(b) Any product made from agricultural crops or residues, including, without limitation, cooking oils.

Sec. 5. “Bureau of consumer protection” means the bureau of consumer protection in the office of the attorney general.

Sec. 6. 1. “Compliance year” means a calendar year that begins on January 1 and ends on December 31.

2. The term does not include any calendar year that begins before January 1, 2003.

Sec. 7. “New renewable energy contract” means a renewable energy contract that is executed on or after the effective date of this regulation.

Sec. 8. “Nonutility provider” means a provider of electric service that is not a public utility.

Sec. 9. “Portfolio standard” has the meaning ascribed to it in section 5 of Senate Bill No. 372 of the 71st session of the Nevada Legislature, chapter 519, Statutes of Nevada 2001, at page 2527 (NRS 704.7805).

Sec. 10. “Preexisting renewable energy contract” means a renewable energy contract which was executed before the effective date of this regulation and which the commission has approved as a preexisting renewable energy contract.

Sec. 11. “Provider of electric service” and “provider” have the meaning ascribed to them in section 6 of Senate Bill No. 372 of the 71st session of the Nevada Legislature, chapter 519, Statutes of Nevada 2001, at page 2527, as amended by section 102 of Assembly Bill No. 661 of

the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001, at page 3273 (NRS 704.7808).

Sec. 12. *“Regulatory operations staff” means the regulatory operations staff of the commission.*

Sec. 13. *“Renewable energy” has the meaning ascribed to it in section 7 of Senate Bill No. 372 of the 71st session of the Nevada Legislature, chapter 519, Statutes of Nevada 2001, at page 2527 (NRS 704.7811).*

Sec. 14. *“Renewable energy contract” has the meaning ascribed to it in section 10 of Senate Bill No. 372 of the 71st session of the Nevada Legislature, chapter 519, Statutes of Nevada 2001, at page 2528 (NRS 704.7821).*

Sec. 15. *“Renewable energy system” has the meaning ascribed to it in section 8 of Senate Bill No. 372 of the 71st session of the Nevada Legislature, chapter 519, Statutes of Nevada 2001, at page 2527, as amended by section 103 of Assembly Bill No. 661 of the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001, at page 3274 (NRS 704.7815).*

Sec. 16. *“Retail customer” has the meaning ascribed to it in section 9 of Senate Bill No. 372 of the 71st session of the Nevada Legislature, chapter 519, Statutes of Nevada 2001, at page 2527, as amended by section 104 of Assembly Bill No. 661 of the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001, at page 3274 (NRS 704.7818).*

Sec. 17. 1. *“Solar renewable energy system” means a renewable energy system that uses solar radiation as its direct source of energy.*

2. The term, includes, without limitation:

(a) A photovoltaic system.

(b) A solar thermal electric system.

(c) A solar thermal system.

Sec. 18. 1. *“Solar thermal system” means an energy system that:*

(a) Displaces the use of electricity generated from nonrenewable energy by using solar radiation to heat water or provide space heating or cooling and meets the requirements of section 34 of this regulation; or

(b) Uses solar radiation in a combined-cycle operation to increase the electric output of an electric generating plant or unit.

2. *The term includes, without limitation:*

(a) A solar thermal electric system.

(b) A solar thermal energy system that reduces the consumption of electricity.

Sec. 19. *“SRCC” means the Solar Rating and Certification Corporation or any successor in interest to that organization.*

Sec. 20. *“Utility provider” means a provider of electric service that is a public utility.*

Sec. 21. 1. *For the purposes of sections 2 to 34, inclusive, of this regulation, the commission hereby adopts by reference the ratings, certification standards and annual performance estimates of the SRCC.*

2. *Copies of the ratings, certification standards and annual performance estimates of the SRCC are available at no charge from the SRCC, c/o FSEC, 1679 Clearlake Road, Cocoa, Florida 32922-5703, or at the Internet website of the SRCC, <<http://www.solar-rating.org>>.*

Sec. 22. 1. *Except as otherwise provided in sections 2 to 34, inclusive, of this regulation, each provider shall comply with its portfolio standard during each compliance year by generating or acquiring electricity from renewable energy systems in the amounts required*

by section 10 of Senate Bill No. 372 of the 71st session of the Nevada Legislature, chapter 519, Statutes of Nevada 2001, at page 2528 (NRS 704.7821), for that compliance year.

2. Each provider has the burden to prove that it complied with its portfolio standard during each compliance year.

Sec. 23. The commission may, at any time, require a provider or an owner or operator of a renewable energy system providing electricity to a provider pursuant to a renewable energy contract to provide the commission with any information that the commission determines is necessary to monitor or enforce compliance with the provisions of sections 2 to 34, inclusive, of this regulation.

Sec. 24. In calculating the total number of kilowatt-hours that a provider generates or acquires from renewable energy systems during a compliance year, the provider may use the following kilowatt-hours if the provider has complied with all requirements for inclusion of the kilowatt-hours in its calculation:

1. Any kilowatt-hours generated by the provider from its own renewable energy systems during the compliance year;

2. Any kilowatt-hours acquired by the provider during the compliance year pursuant to preexisting renewable energy contracts;

3. Any kilowatt-hours acquired by the provider during the compliance year pursuant to new renewable energy contracts;

4. Any equivalent kilowatt-hours attributable to the provider during the compliance year from solar thermal systems;

5. Any excess kilowatt-hours fed back to the provider during the compliance year from net metering systems used by customer-generators pursuant to NRS 704.766 to 704.775, inclusive; and

6. Any kilowatt-hours that the provider is authorized to carry forward from previous compliance years.

Sec. 25. 1. *Not later than April 1 of each compliance year, each provider shall submit to the regulatory operations staff and the bureau of consumer protection:*

(a) The total number of kilowatt-hours sold by the provider to its retail customers in this state during the most recently completed compliance year. For compliance year 2003, calendar year 2002 shall be deemed to be the most recently completed compliance year for the purposes of this paragraph.

(b) The estimated number of kilowatt-hours that the provider expects to sell to its retail customers in this state during the current compliance year.

(c) The estimated number of kilowatt-hours that the provider must generate or acquire from renewable energy systems to comply with its portfolio standard for the current compliance year, as calculated by the provider pursuant to subsection 2.

2. To calculate the estimated number of kilowatt-hours that the provider must generate or acquire from renewable energy systems to comply with its portfolio standard for the current compliance year, the provider must multiply the estimated number of kilowatt-hours that the provider expects to sell to its retail customers in this state during the current compliance year by the required percentage that is set forth in section 10 of Senate Bill No. 372 of the 71st session of the Nevada Legislature, chapter 519, Statutes of Nevada 2001, at page 2528 (NRS 704.7821), for the current compliance year.

3. If the total number of kilowatt-hours that the provider generates or acquires from renewable energy systems for the current compliance year is equal to or exceeds the estimated number of kilowatt-hours as calculated by the provider pursuant to subsection 2, the commission will not impose an administrative fine or take other administrative action against the provider for that compliance year.

Sec. 26. 1. Beginning with compliance year 2004, not later than April 1 of each compliance year, each provider shall submit to the commission an annual report that sets forth all the information required by this section.

2. The annual report must set forth:

(a) The capacity of each renewable energy system owned, operated or controlled by the provider, the total number of kilowatt-hours generated by each such system during the most recently completed compliance year and the percentage of that total amount which was generated directly from renewable energy.

(b) Whether, during the most recently completed compliance year, the provider began construction on, acquired or placed into operation any renewable energy system and, if so, the date of any such event.

(c) The total number of kilowatt-hours sold by the provider to its retail customers in this state during the most recently completed compliance year.

(d) The total number of kilowatt-hours that the provider generated or acquired from renewable energy systems during the most recently completed compliance year and, from that total number of kilowatt-hours, subtotals for the number of kilowatt-hours:

(1) Generated by the provider from its own renewable energy systems;

(2) Acquired by the provider pursuant to preexisting renewable energy contracts;

(3) Acquired by the provider pursuant to new renewable energy contracts;

(4) Attributable to the provider from solar thermal systems;

(5) Fed back to the provider from net metering systems used by customer-generators pursuant to NRS 704.766 to 704.775, inclusive; and

(6) Carried forward by the provider from previous compliance years.

(e) The total number of kilowatt-hours that the provider intends to carry forward from the most recently completed compliance year.

(f) The estimated number of kilowatt-hours that the provider expects to sell to its retail customers in this state during the current compliance year.

(g) The estimated number of kilowatt-hours that the provider must generate or acquire from renewable energy systems to comply with its portfolio standard for the current compliance year, as calculated by the provider pursuant to section 25 of this regulation.

(h) If the provider is a utility provider, the estimated costs for the utility provider to comply with its portfolio standard for the current compliance year. If appropriate, the utility provider must report such estimated costs for each major type of cost, such as general and administrative costs and costs for purchased power.

3. In the annual report, the provider must make an affirmative showing that the provider complied with its portfolio standard during the most recently completed compliance year. If the provider did not comply with its portfolio standard during the most recently completed compliance year, in the annual report the provider must:

(a) Make a detailed explanation for its noncompliance; and

(b) Provide any information that would support an exemption for the provider from any administrative fine or other administrative action.

4. If, to comply with its portfolio standard during the most recently completed compliance year, the provider acquired any kilowatt-hours from a renewable energy system that is not owned, operated or controlled by the provider, the annual report must include an attestation from the owner or operator of the renewable energy system that the energy represented by those kilowatt-hours:

(a) Has not been and will not be sold or otherwise exchanged for compensation or used for renewable energy credits in any other state or jurisdiction; and

(b) Has not been and will not be included within a blended energy product certified to include a fixed percentage of renewable energy in any other state or jurisdiction.

Sec. 27. 1. *Not later than 30 days after the date on which a provider submits its annual report, the commission will issue an order stating whether the provider complied with its portfolio standard during the most recently completed compliance year.*

2. If the commission determines that the provider complied with its portfolio standard during the most recently completed compliance year, the commission will determine whether the provider is authorized to carry forward any excess kilowatt-hours from that compliance year. If the commission determines that the total number of kilowatt-hours which the provider generated or acquired from renewable energy systems during the most recently completed compliance year exceeded the total number of kilowatt-hours which the provider needed to comply with its portfolio standard for that compliance year:

(a) The commission will state in its order the number of excess kilowatt-hours which the provider is authorized to carry forward from that compliance year; and

(b) The provider may use those excess kilowatt-hours to comply with its portfolio standard for the 4 compliance years immediately following that compliance year.

3. If the commission determines that the provider did not comply with its portfolio standard during the most recently completed compliance year, the commission will:

(a) State in its order the number of kilowatt-hours by which the provider failed to comply with its portfolio standard; and

(b) Issue a notice of noncompliance and schedule a hearing on the matter.

4. At the hearing, the provider has the burden to prove that it complied with its portfolio standard during the most recently completed compliance year.

5. Except as otherwise provided in sections 2 to 34, inclusive, of this regulation, if, after the hearing, the commission determines that the provider did not comply with its portfolio standard during the most recently completed compliance year, the commission may impose an administrative fine that is assessed against the provider on each kilowatt-hour by which the provider failed to comply with its portfolio standard or take other administrative action against the provider, or do both.

6. In determining whether to impose an administrative fine or take other administrative action against the provider, the commission will consider whether the provider should have built its own renewable energy systems to comply with its portfolio standard.

7. If the commission imposes an administrative fine that is assessed against a provider on each kilowatt-hour by which the provider failed to comply with its portfolio standard, the commission will calculate the administrative fine, on a per kilowatt-hour basis:

(a) For a utility provider, in an amount that is not less than the difference between the just and reasonable average cost per kilowatt-hour to acquire electricity pursuant to renewable energy contracts and the overall average cost per kilowatt-hour to generate and acquire electricity that is incurred by the utility provider.

(b) For a nonutility provider, in an amount that is not less than the difference between the just and reasonable average cost per kilowatt-hour to acquire electricity pursuant to renewable energy contracts and the overall average cost per kilowatt-hour to generate and acquire electricity that is incurred by a utility provider designated by the commission.

Sec. 28. 1. If the commission imposes an administrative fine or takes other administrative action against a provider pursuant to section 27 of this regulation, not later than 30 days after the date on which the commission issues its order, the provider may file with the commission a petition for an exemption from the administrative fine or other administrative action. If the provider files such a petition, the commission will schedule a hearing on the petition to be held not later than 75 days after the date on which the petition is filed.

2. For the provider to be entitled to an exemption, the commission must determine that there was not a sufficient supply of electricity from renewable energy systems made available to the provider during the most recently completed compliance year. The commission will make such a determination only if it finds that:

(a) After the provider made its request for proposals for renewable energy contracts, the proposals received by the provider did not offer sufficient quantities of electricity for the provider to comply with its portfolio standard or did not offer sufficient quantities of electricity pursuant to renewable energy contracts with just and reasonable terms and conditions;

(b) After the provider contracted for sufficient quantities of electricity pursuant to renewable energy contracts with just and reasonable terms and conditions, one or more of the renewable energy systems under contract were unable or failed to meet their contractual

commitments to the provider or were prevented from meeting their contractual commitments to the provider based on federal, state or local requirements or standards;

(c) Other facts and circumstances which the commission deems relevant support a conclusion that there was not a sufficient supply of electricity from renewable energy systems made available to the provider; or

(d) The provider could not have economically or technically placed into commercial operation its own renewable energy systems.

3. If, after the hearing, the commission determines that there was not a sufficient supply of electricity from renewable energy systems made available to the provider during the most recently completed compliance year, the commission:

(a) Will grant, in whole or in part, the petition for an exemption from the administrative fine or other administrative action; and

(b) Will not impose an administrative fine or take other administrative action against the provider with regard to any insufficiency in the portfolio standard that occurs because one or more of the renewable energy systems under contract were unable or failed to meet their contractual commitments to the provider or were prevented from meeting their contractual commitments to the provider based on federal, state or local requirements or standards.

Sec. 29. 1. If a utility provider executes a new renewable energy contract, the utility provider shall submit the new renewable energy contract to the commission for approval. The new renewable energy contract shall be deemed to be a long-term purchase obligation for the purposes of NAC 704.9005 to 704.9525, inclusive, regardless of the term of the contract or the amount of electricity to be acquired pursuant to the contract, and the utility provider shall

submit the contract to the commission for approval in accordance with the provisions of those sections.

2. To approve a new renewable energy contract executed by a utility provider, the commission must determine that the terms and conditions of the new renewable energy contract are just and reasonable. In making its determination, the commission will consider, without limitation:

- (a) The price of the electricity and the standards set forth in section 30 of this regulation;*
- (b) The term of the contract;*
- (c) The location of each renewable energy system that is subject to the contract;*
- (d) The use of natural resources by each renewable energy system that is subject to the contract;*
- (e) The firmness of the electricity to be delivered and the delivery schedule;*
- (f) The delivery point for the electricity;*
- (g) The characteristics of similar renewable energy systems;*
- (h) The requirements for ancillary services;*
- (i) The unit contingent provisions;*
- (j) The system peak capacity requirements of the utility provider;*
- (k) The requirements for scheduling;*
- (l) Conditions and limitations on the transmission system;*
- (m) Project insurance;*
- (n) Indemnification;*
- (o) The costs for procuring replacement power in the event of nondelivery; and*

(p) Information verifying that each renewable energy system which is subject to the contract transmits or distributes or will transmit or distribute the electricity that it generates from renewable energy in accordance with the requirements of section 8 of Senate Bill No. 372 of the 71st session of the Nevada Legislature, chapter 519, Statutes of Nevada 2001, at page 2527, as amended by section 103 of Assembly Bill No. 661 of the 71st session of the Nevada Legislature, chapter 604, Statutes of Nevada 2001, at page 3274 (NRS 704.7815).

3. The commission will not approve a new renewable energy contract executed by a utility provider if the new renewable energy contract does not include provisions for liquidated damages or another form of indemnification for the failure of performance by a renewable energy system that is subject to the contract.

Sec. 30. 1. If a utility provider has retail customers who have not elected to purchase electricity generated from renewable energy at a higher rate pursuant to a program of optional pricing, the cumulative cost incurred by the utility provider to comply with its portfolio standard must not increase rates for those retail customers more than:

(a) For compliance year 2003 and compliance year 2004, \$0.0005 per kilowatt-hour estimated to be sold to those retail customers by the utility provider. The commission may waive the requirements of this paragraph for good cause demonstrated by the utility provider in an amendment to its plan of action which is submitted to the commission pursuant to NAC 704.9503.

(b) For each compliance year thereafter, the amount established by the commission for the utility provider in that utility provider's plan to increase its supply of or decrease the demand for electricity which is submitted to the commission pursuant to NAC 704.9005 to 704.9525, inclusive.

2. The utility provider shall calculate the impact that compliance with its portfolio standard has on rates for those retail customers described in subsection 1 as follows:

(a) The utility provider shall calculate its estimated weighted average rate per kilowatt-hour to comply with its portfolio standard for the compliance year by dividing its estimated levelized annual cost to comply with its portfolio standard for the compliance year by the estimated number of kilowatt-hours that it will generate or acquire from renewable energy systems to comply with its portfolio standard for the compliance year.

(b) The utility provider shall calculate its current weighted average rate per kilowatt-hour to provide electric service by adding together its weighted average base tariff energy rate most recently approved by the commission and its weighted average base tariff general rate most recently approved by the commission.

(c) The utility provider shall multiply the difference between the estimated weighted average rate that is calculated pursuant to paragraph (a) and the current weighted average rate that is calculated pursuant to paragraph (b) by the estimated number of kilowatt-hours that it will generate or acquire from renewable energy systems to comply with its portfolio standard for the compliance year.

(d) The utility provider shall divide the product calculated pursuant to paragraph (c) by the estimated number of kilowatt-hours that it expects to sell to its retail customers in this state during the compliance year.

3. In addition to the requirements set forth in subsection 1 and except as otherwise provided in subsection 5, the cost incurred by a utility provider to acquire electricity pursuant to each new nonsolar renewable energy contract to meet specific base load, intermediate load and peak load requirements must not be more than:

(a) For the period beginning on the effective date of this regulation and ending on December 31, 2004, 140 percent of:

(1) The levelized price for a standard electric product involving similar amounts of electricity for similar use for a term of 10 years for a fixed price; or

(2) The levelized cost to construct and operate a nonsolar renewable energy system supplying similar amounts of electricity for similar use for a period of at least 10 years, whichever is less.

FLUSH

(b) For each compliance year thereafter, the amount established by the commission for the utility provider in that utility provider's plan to increase its supply of or decrease the demand for electricity which is submitted to the commission pursuant to NAC 704.9005 to 704.9525, inclusive.

4. In addition to the requirements set forth in subsection 1 and except as otherwise provided in subsection 5, the cost incurred by a utility provider to acquire electricity pursuant to each new solar renewable energy contract to meet specific base load, intermediate load and peak load requirements must not be more than:

(a) For the period beginning on the effective date of this regulation and ending on December 31, 2004, 200 percent of:

(1) The levelized price for a standard electric product involving similar amounts of electricity for similar use for a term of 10 years for a fixed price; or

(2) The levelized cost to construct and operate a solar renewable energy system supplying similar amounts of electricity for similar use for a period of at least 10 years, whichever is less.

FLUSH

(b) For each compliance year thereafter, the amount established by the commission for the utility provider in that utility provider's plan to increase its supply of or decrease the demand for electricity which is submitted to the commission pursuant to NAC 704.9005 to 704.9525, inclusive.

5. In approving a new renewable energy contract, the commission may waive the requirements of subsection 3 or 4 for good cause demonstrated by the utility provider.

6. To calculate the cost incurred by a utility provider to acquire electricity pursuant to a new renewable energy contract, the utility provider must calculate the levelized market price for the electricity based on:

(a) The rates for electricity and capacity set forth in the contract;

(b) Any escalators or inflation indices set forth in the contract;

(c) Any delivery projections for electricity and capacity set forth in the contract; and

(d) Any other terms and conditions set forth in the contract that would affect the price paid for electricity acquired pursuant to the contract.

FLUSH *All data that the utility provider uses to make its calculation must be based on the most current projections available when the new renewable energy contract is executed.*

7. For the purposes of this section:

(a) The standard electric product is the least expensive option available to the utility provider to purchase electricity and capacity to meet specific base load, intermediate load and peak load requirements, regardless of the energy source used to generate the electricity.

(b) The levelized price for the standard electric product must be calculated based on prices provided through the broker market.

(c) The cost to construct and operate a nonsolar renewable energy system is the least expensive option available to the utility provider based on:

(1) The actual cost, as set forth in a bona fide offer made to the utility provider, to construct and operate a nonsolar renewable energy system for a period of at least 10 years; or

(2) The estimated cost, as calculated by the utility provider, to construct and operate a nonsolar renewable energy system for a period of at least 10 years.

(d) The cost to construct and operate a solar renewable energy system is the least expensive option available to the utility provider based on:

(1) The actual cost, as set forth in a bona fide offer made to the utility provider, to construct and operate a solar renewable energy system for a period of at least 10 years; or

(2) The estimated cost, as calculated by the utility provider, to construct and operate a solar renewable energy system for a period of at least 10 years.

8. A nonutility provider is not required to make the calculations set forth in this section unless it claims that it is entitled to an exemption from any administrative fine or other administrative action because there was not a sufficient supply of electricity made available to the nonutility provider pursuant to renewable energy contracts with just and reasonable terms and conditions.

Sec. 31. 1. *Not later than 30 days after the effective date of this regulation, each utility provider shall issue an initial request for proposal or competitive solicitation to solicit proposals for renewable energy contracts to be used by the utility provider to comply with its portfolio standard. The initial request for proposal or competitive solicitation must set forth the date on which the period for accepting proposals or solicitations ends.*

2. Not later than 90 days after the date on which the period for accepting proposals or solicitations ends, the utility provider shall submit to the regulatory operations staff and the bureau of consumer protection:

(a) All proposals or solicitations for renewable energy contracts received by the utility provider; and

(b) A recommendation as to which of those proposals or solicitations for renewable energy contracts should be accepted by the utility provider. In making its recommendation, the utility provider shall consider, without limitation, the factors listed in subsection 2 of section 29 of this regulation.

3. Not later than 60 days after the date on which the utility provider submits the information and recommendation required by subsection 2, the regulatory operations staff and the bureau of consumer protection may meet with the utility provider to discuss and evaluate its recommendation.

Sec. 32. *The electric output of any renewable energy system that generates electricity must be metered and capable of being verified if the maximum electric output of the renewable energy system is more than 10 kilowatts.*

Sec. 33. 1. *If a renewable energy system uses any fossil fuel as an energy source to generate electricity and that fossil fuel constitutes 2 percent or less of the total input, as measured in British thermal units, used by the renewable energy system to generate electricity, the total electric output of the renewable energy system qualifies as electricity generated from renewable energy.*

2. If a renewable energy system uses any fossil fuel as an energy source to generate electricity and that fossil fuel constitutes more than 2 percent of the total input, as measured in

British thermal units, used by the renewable energy system to generate electricity, only the proportion of the total electric output of the renewable energy system that can be attributed to the use of renewable energy qualifies as electricity generated from renewable energy. The proportion of the total electric output that qualifies as electricity generated from renewable energy must be calculated based on:

(a) The proportion that renewable energy constitutes of the total input, as measured in British thermal units, used by the renewable energy system to generate electricity; or

(b) If practicable, separate metering.

Sec. 34. 1. *A solar thermal system which displaces the use of electricity generated from nonrenewable energy and which is used as a solar water heating system qualifies as a renewable energy system only if the solar water heating system is certified by the SRCC and is installed in conjunction with an electric water heater in a location where natural gas is unavailable. To calculate the number of equivalent kilowatt-hours attributable to the solar water heating system, the provider must use:*

(a) A thermal energy meter; or

(b) If the solar water heating system is not metered with a thermal energy meter, the annual performance estimates of the SRCC for the solar water heating system.

2. *A solar thermal system which displaces the use of electricity generated from nonrenewable energy and which is used for a purpose other than as a solar water heating system qualifies as a renewable energy system only if the commission determines that the provider can adequately measure or estimate the number of equivalent kilowatt-hours attributable to the solar thermal system.*

Sec. 35. NAC 704.9113 is hereby amended to read as follows:

704.9113 “Long-term purchase obligation” means ~~fa~~:

1. A new renewable energy contract that must be submitted to the commission for approval pursuant to section 29 of this regulation, regardless of the term of the contract or the amount of electricity to be acquired pursuant to the contract; and

2. Any other contract for the purchase of more than 5 megawatts and having a term of more than 3 years.

Sec. 36. NAC 704.9503 is hereby amended to read as follows:

704.9503 A utility shall continually monitor its plan of action and shall apply for permission to amend its plan before it submits its next plan if any of the following circumstances exist:

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

2. The utility makes a commitment for the acquisition or construction of a facility which was not previously approved as part of the plan of action.

3. The utility makes a commitment for a long-term purchase obligation which was not previously approved as part of the plan of action. A long-term purchase obligation with a qualifying facility is not subject to the provisions of this subsection if ~~the~~:

(a) The long-term purchase obligation is not a new renewable energy contract that must be submitted to the commission for approval pursuant to section 29 of this regulation; and

(b) The cumulative contractual amount of power purchased does not exceed the capacity limitation specified for the utility’s avoided cost rate established pursuant to NAC 704.690 to 704.745, inclusive.

4. The utility makes a commitment for an option which was not available at the time the plan was approved.

5. The basic data used in the formation of the plan requires significant modification which affects the choice of a resource which was approved as part of the plan of action.

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