

LCB File No. R153-04

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

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

AUTHORITY: NRS 703.025, 704.210 and 704.7828.

A REGULATION relating to the Renewable Energy Portfolio Standard; adopting provisions to establish a Temporary Renewable Energy Development Program; and providing other matters properly relating thereto.

Section 1. *Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10 inclusive, of this regulation.*

Section 2. *“New Renewable Energy Project” shall mean a renewable energy project, the construction of which commenced on or after July 1, 2001.*

Section 3. *“Temporary Renewable Energy Program” or “TRED Program” shall mean a program established by the Commission pursuant to NRS §704.7828(1) to assist with the completion of new renewable energy projects with Commission-approved renewable energy contracts.*

Section 4. *“Temporary Renewable Energy Charge” or “TRED Charge” shall mean an amount determined pursuant to Section 9, set forth in NAC 704.XXX below, to be collected by a utility provider from retail electric customers on behalf of the TRED Trust.*

Section 5. *“Temporary Renewable Energy Trust” or “TRED Trust” shall mean a trust established by the utility provider for the benefit of eligible renewable energy projects pursuant to a Commission order under Section 8, set forth in NAC 704.XXX below.*

Section 6. *The Commission may establish a TRED Program to assist with the completion of new renewable energy projects associated with Commission-approved renewable energy contracts and require a utility provider's participation in such program. In determining whether to establish and require a utility provider to implement a TRED Program, the Commission will consider:*

1. The creditworthiness of the utility provider as measured by its bond rating and other key financial indicators;

2. Whether the creditworthiness of the utility provider has or is impeding the schedule for completing a new renewable energy project in accordance with a Commission-approved renewable energy contract;

3. Whether the use of the TRED Trust will alleviate such impediments to completing a new renewable energy project in accordance with a Commission-approved renewable energy contract; and

4. Whether the use of the TRED Trust is necessary and reasonable to ensure that each provider of electric service complies with its renewable energy portfolio standard.

Section 7. *If, after considering the above factors, the Commission determines that it is in the public interest to establish a TRED Program and require a utility provider's participation in such program, the Commission will take the following action:*

1. Order the establishment of a TRED Trust in accordance with the provisions of Section 8, set forth in NAC 704.XXX below; and

2. Order the establishment of a TRED Charge in accordance with the provisions of Section 9, set forth in NAC 704.XXX below; and

3. Designate which new renewable energy projects with Commission-approved renewable energy contracts are eligible to participate in the TRED Program.

Section 8. *Within thirty (30) days of the issuance of an order from the Commission establishing a TRED Program, the utility provider will appoint a third-party professional trustee acceptable to the Commission and take all actions necessary to initiate the TRED Trust. The TRED Trust will be responsible for receiving funds collected by the utility provider from retail customers pursuant to a TRED Charge, and for disbursing those funds to eligible renewable energy projects. The TRED Trust shall have the sole right to receive revenue generated by the TRED Charge, and the right to receive such revenue will constitute a current property right granted to and vested in the TRED Trust.*

1. The utility provider will file an executed copy of the Trust Agreement between the utility provider and the TRED Trust trustee with the Commission for its approval.

2. The Trust Agreement will contain a provision establishing a minimum level of reserve for the TRED Trust equal to three times the highest projected monthly payment to each eligible renewable energy project for the period during which the TRED Charge will be in effect.

3. The costs incurred by the utility participant to initiate and maintain the TRED Trust, including but not limited to the cost of reserves advanced by the utility provider to the TRED Trust (if any), any taxes assessed to the utility provider for amounts related to the TRED Trust, and the fees charged by the trustee, are considered expenses associated with the acquisition of purchased power, are to be booked by the utility provider in FERC Account 557 as an “other expense” associated with purchasing power, and are to be recovered by the utility

provider pursuant to the deferred energy accounting process (NAC §704.023 to §704.195 inclusive).

4. Once the TRED Charge is established pursuant to a Commission Order under Section 9, set forth in NAC 704.XXX below, the utility provider will begin to collect the TRED Charge from its retail customers. Beginning with the first full calendar week thereafter and continuing once each week following, the utility provider will estimate and remit to the TRED Trust the total amount collected by the TRED Charge through the last calendar day of the previous period.

5. On the twentieth calendar day of each month the utility provider will provide the TRED Trust trustee with a statement showing the calculation of the amounts to be dispersed to each eligible renewable energy project in accordance with their respective renewable energy contracts based on each eligible renewable energy project's production during the previous calendar month. The TRED Trust will have seven calendar days within which to remit payment to each eligible renewable energy project in accordance with the statement provided by the utility provider.

Section 9. *Once the TRED Program is established by the Commission and the utility provider has put the TRED Trust in place, concurrent with the filing of its next annual deferred energy application, each utility provider will seek Commission authority to establish or continue, as revised, a TRED Charge.*

1. The TRED Charge will be determined in accordance with the following formula:

Let:

PC = the twelve-month projected cost of renewable energy to be delivered to the utility provider from renewable energy projects eligible for the TRED

Program, determined as the sum from all eligible projects of the product of the twelve-month projected production from each eligible project at the rates set forth in each the Commission-approved renewable energy contracts for each eligible project, plus the twelve month projected tax liability for the TRED Trust.

RA = the adjustment to increase or decrease the reserve, which shall equal the sum of the reserves for each of the renewable energy contracts approved for payment in accordance with NAC §704.XXX.

TE = the historical Nevada jurisdictional kilowatt-hour sales reflected in electric utility's concurrent deferred energy application.

$$\text{TRED CHARGE} = \frac{PC + RA}{TE}$$

2. The utility provider will seek review of each element of the TRED Charge at least once each year, concurrent with the filing of the utility's annual deferred energy application.

3. The utility provider may seek interim review of any or all elements of the TRED Charge where experienced production from eligible renewable energy projects or experienced revenues collected pursuant to the TRED Charge differ materially from projected production from renewable energy projects associated with Commission-approved contracts or projected revenues collected pursuant to the TRED Charge, causing either inadequate or excess reserves.

4. Once the TRED Charge is established pursuant to Section 9.1, set forth in NAC 704.XXX above, that amount will be collected by the utility provider on behalf of the TRED Trust until revised pursuant to Section 9.2, set forth in NAC 704.XXX above, Section 9.3, set forth in NAC 704.XXX above, or Section 10, set forth in NAC 704.XXX below.

Section 10. *A utility provider may apply to the Commission for authority to close the TRED Program to new renewable energy projects once the utility provider has achieved an investment grade credit rating as determined by either Moody's or Standard and Poor's and maintained that credit rating for twenty-four consecutive months.*

1. The Commission will grant such application only after finding that the utility provider's creditworthiness is sufficiently restored so that closure of the TRED Program to new renewable energy projects is in the public interest.

2. An order closing the TRED Program to new renewable energy projects will not be effective as to any renewable energy project that has previously been accepted into the TRED Program and that receives remittance from the TRED Trust with proceeds from the TRED Charge unless and until the earlier of:

(a) the expiration or termination of the original Commission-approved contract between the utility provider and the renewable energy project, in which case the renewable energy project's participation in the TRED Program will, without further process, be terminated, or

(b) the original financing, including debt and/or equity as applicable, entered into by such renewable energy project upon completion of construction of such project has been fully satisfied pursuant to its original terms, in which case the renewable energy project has an affirmative obligation to inform the Commission of such within thirty (30) days of such an event, and either:

i. apply to the Commission for an order allowing the renewable energy project to remain in the TRED Program, or

ii. the renewable energy project's participation in the TRED Program will be terminated without further process.

3. When the participation of all new renewable energy projects in the TRED Program have been terminated, the TRED Charge will be terminated, and the TRED Trust will be instructed to remit any balance in the TRED Trust to the utility provider. The utility provider will use the balance in the TRED Trust to first offset any reserves advanced by the utility provider to the TRED Trust. The utility provider will subsequently apply any excess or shortfall from the TRED Trust to the utility provider's then-current deferred energy balance. In the utility provider's next deferred energy filing, the utility provider will establish a new BTER that reflects the utility provider's estimated annual cost of purchasing power from renewable energy projects formerly included in the TRED Program.