

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

**LCB File No. R064-10**

Effective October 15, 2010

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

AUTHORITY: §§1-8, 16-18 and 20, NRS 703.025, 704.210 and 704.7828; §§9, 10, 12 and 13, NRS 703.025, 704.210, 704.7821 and 704.7828; §11, NRS 703.025, 704.210, 704.7825 and 704.7828; §14, NRS 703.025, 704.210, 704.741, 704.7821 and 704.7828; §15, NRS 703.025, 704.210, 704.7827 and 704.7828; §19, NRS 703.025, 704.210 and 704.741.

A REGULATION relating to energy; revising provisions relating to contracts for renewable energy and portfolio energy credits; 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 7, inclusive, of this regulation.

**Sec. 2.** *“Energy efficiency contract” has the meaning ascribed to it in NRS 704.7821.*

**Sec. 3.** *“Long-term portfolio energy credits contract” means a contract for the purchase of portfolio energy credits with a term of more than 3 years.*

**Sec. 4.** *“Long-term renewable energy contract” means a contract for the purchase of renewable energy with a term of more than 3 years.*

**Sec. 5.** *“Short-term portfolio energy credits contract” means a contract for the purchase of portfolio energy credits that has a duration of not more than 3 years.*

**Sec. 6.** *“Short-term renewable energy contract” means a contract for the purchase of renewable energy that has a duration of not more than 3 years.*

**Sec. 7.** *The Commission will evaluate each short-term portfolio energy credits contract and short-term renewable energy contract during the hearings for the applicable annual deferred energy applications filed pursuant to NAC 704.116.*

**Sec. 8.** NAC 704.88663 is hereby amended to read as follows:

704.88663 “Temporary renewable energy development program” or “TRED program” means a program established by order of the Commission to assist with the completion of new renewable energy projects associated with Commission-approved renewable energy or ~~renewable~~ *portfolio* energy credits contracts.

**Sec. 9.** NAC 704.8872 is hereby amended to read as follows:

704.8872 1. As an alternative to transferring ~~renewable~~ *portfolio* energy credits directly to providers of electric service, portfolio energy credits generated by renewable energy systems may be transferred to an aggregator of portfolio energy credits.

2. As used in this section, “aggregator of portfolio energy credits” means a person who obtains portfolio energy credits and then transfers those credits in aggregate to providers of electric service.

**Sec. 10.** NAC 704.8875 is hereby amended to read as follows:

704.8875 In calculating the total number of kilowatt-hours that a provider generates, acquires or saves from portfolio energy systems or efficiency measures 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 or saved by the provider during the compliance year pursuant to preexisting renewable energy contracts or energy efficiency contracts;~~
- ~~—3.}~~ Any kilowatt-hours acquired or saved by the provider during the compliance year pursuant to ~~{new}~~ *long-term portfolio energy credits contracts, long-term* renewable energy contracts, *short-term portfolio energy credits contracts, short-term renewable energy contracts* or energy efficiency contracts;
- ~~{4.}~~ 3. Any equivalent kilowatt-hours attributable to the provider during the compliance year from solar thermal systems;
- ~~{5.}~~ 4. 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;
- ~~{6.}~~ 5. Any kilowatt-hours saved during the compliance year as a result of an energy efficiency measure, subject to the limitations set forth in NRS 704.7821; and
- ~~{7.}~~ 6. Any kilowatt-hours that the provider is authorized to carry forward from previous compliance years.

**Sec. 11.** NAC 704.8879 is hereby amended to read as follows:

704.8879 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, acquired or saved from portfolio energy systems or efficiency measures during the most recently completed compliance year and, from that total number of kilowatt-hours, subtotals for the number of kilowatt-hours:

(1) Generated or saved by the provider from its own portfolio energy systems or efficiency measures;

(2) Acquired by the provider pursuant to ~~[preexisting-renewable]~~ *long-term portfolio energy credits* contracts;

(3) Acquired by the provider pursuant to ~~[new]~~ *long-term* renewable energy contracts;

(4) *Acquired by the provider pursuant to short-term portfolio energy credits contracts;*

*(5) Acquired by the provider pursuant to short-term renewable energy contracts;*

~~(6)~~ (6) Acquired or saved by the provider pursuant to ~~[new]~~ energy efficiency contracts;

~~(5)~~ (7) Attributable to the provider from solar thermal systems;

~~(6)~~ (8) Fed back to the provider from net metering systems used by customer-generators pursuant to NRS 704.766 to 704.775, inclusive;

~~(7)~~ (9) Carried forward by the provider from previous compliance years; and

~~(8)~~ (10) Saved by the provider as a result of energy efficiency measures installed at service locations of residential customers of the provider for the purposes of paragraph (b) of subsection 2 of NRS 704.7821.

(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, acquire or save from portfolio energy systems or efficiency measures to comply with its portfolio standard for the current compliance year, as calculated by the provider pursuant to NAC 704.8877.

(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 credit 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. 12.** NAC 704.8885 is hereby amended to read as follows:

704.8885 1. If a utility provider executes a ~~[new]~~ *long-term portfolio energy credits contract, long-term* renewable energy contract or energy efficiency contract, the utility provider shall submit the ~~[new renewable energy contract or energy efficiency]~~ contract to the Commission for approval. The ~~[new renewable energy contract or energy efficiency]~~ 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 or saved 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]~~ *long-term portfolio energy credits contract, long-term* renewable energy contract or energy efficiency contract executed by a utility provider, the Commission must determine that the terms and conditions of the ~~[new renewable energy contract or energy efficiency]~~ contract are just and reasonable. In making its determination, the Commission will consider, as applicable and without limitation:

(a) The reasonableness of the price for the electricity based on the factors set forth in NAC 704.8887;

- (b) The term of the contract;
- (c) The location of each portfolio energy system or efficiency measure 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) The costs for procuring replacement power in the event of nondelivery;
- (o) 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 NRS 704.7815;
- (p) For each owner and for each operator of a renewable energy system that is subject to the contract, the total number of renewable energy systems that each such owner and each such operator is or has been associated with as an owner or operator, including, without limitation, all renewable energy systems that are actively being constructed by or have been constructed by the owner or operator;

(q) For each renewable energy system that is subject to the contract, the points of interconnection with the electric system of the utility;

(r) The interconnection priority which has been established for the available transmission capacity of the utility provider for all proposed renewable energy systems that will interconnect and begin commercial operation within the 3-year period immediately following the date on which the ~~[new renewable energy contract or energy efficiency]~~ contract is submitted for approval;

(s) Any requests for transmission service that have been filed with the utility provider;

(t) For each renewable energy system that is subject to the contract, any evidence that an environmental assessment, an environmental impact statement or an environmental impact report is being completed or has been completed with regard to the renewable energy system, or any evidence that a contract has been executed with an environmental contractor who will prepare such an assessment, statement or report within the 3-year period immediately preceding the date on which the renewable energy system is projected to begin commercial operation;

(u) Whether any required permits have been acquired from or any applications for such permits have been filed with the appropriate governing agencies within the 3-year period immediately preceding the date on which the renewable energy system is projected to begin commercial operation;

(v) Whether any applications for developmental rights have been filed with the appropriate federal agencies, including, without limitation, the United States Bureau of Land Management, where the granting of such developmental rights is not contingent upon a competitive bidding process;



(w) For each renewable energy system that is subject to the contract, any evidence that establishes rights of ownership, possession or use concerning land or natural resources, including, without limitation, deeds, land patents, leases, contracts, licenses or permits concerning land, geothermal drilling rights or other rights to natural resources; and

(x) Whether the utility provider has any economical dispatch rights.

**Sec. 13.** NAC 704.8887 is hereby amended to read as follows:

704.8887 1. For the purposes of this section, each utility provider shall calculate the price for electricity acquired or saved pursuant to a ~~new~~ *long-term portfolio energy credits contract, long-term* renewable energy contract or energy efficiency contract by calculating 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 or saved pursuant to the contract.

↪ 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 or energy efficiency~~ contract is executed.

2. After the utility provider calculates the price pursuant to subsection 1, the Commission will determine whether the price is reasonable. In making its determination, the Commission will consider, without limitation:

(a) Whether the ~~new renewable energy contract or energy efficiency~~ contract comports with the utility provider's most recently approved plan to increase its supply of or decrease the

demand for electricity that is submitted to the Commission pursuant to NAC 704.9005 to 704.9525, inclusive;

(b) The reasonableness of any price indexing provision set forth in the ~~[new renewable energy contract or energy efficiency]~~ contract;

(c) As compared to competing facilities or energy systems that use one or more fossil fuels as their primary source of energy to generate electricity, whether the renewable energy systems that are subject to the contract will reduce environmental costs in this State, including, without limitation:

- (1) Air emissions;
- (2) Water consumption;
- (3) Waste disposal and other land uses; and
- (4) Impacts on wildlife;

(d) The net economic impact and all environmental benefits and environmental costs to this State in accordance with NAC 704.9005 to 704.9525, inclusive;

(e) Any economic development benefits that might inure to any sector of the economy of this State;

(f) The diversity of energy sources being used to generate the electricity that is consumed in this State;

(g) The diversity of energy suppliers generating or selling electricity in this State;

(h) The value of any price hedging or energy price stability associated with the ~~[new renewable energy contract or energy efficiency]~~ contract;

(i) The date on which each renewable energy system that is subject to the contract is projected to begin commercial operation;

(j) Whether the utility provider has any flexibility concerning the quantity of electricity that the utility provider must acquire or save pursuant to the ~~[new renewable energy contract or energy efficiency]~~ contract;

(k) Whether the ~~[new renewable energy contract or energy efficiency]~~ contract will result in any benefits to the transmission system of the utility provider; and

(l) Whether the electricity acquired or saved pursuant to the ~~[new renewable energy contract or energy efficiency]~~ contract is priced at or below the utility provider's long-term avoided cost rate.

3. If a utility provider will be using a ~~[new]~~ *long-term portfolio energy credits contract, long-term* renewable energy contract or energy efficiency contract to comply with the solar energy requirements of its portfolio standard, the price for electricity acquired pursuant to that contract will be evaluated separately from the price for electricity acquired or saved pursuant to other ~~[new]~~ *long-term portfolio energy credits contracts, long-term* renewable energy contracts or energy efficiency contracts that will not be used to comply with the solar energy requirements of the portfolio standard.

**Sec. 14.** NAC 704.88875 is hereby amended to read as follows:

704.88875 1. For a *long-term portfolio energy credits contract, long-term* renewable energy contract or energy efficiency contract for a term of more than 3 years, a utility provider may request that the Commission approve mitigation for the impact of imputed debt on the capital structure of the utility provider.

2. If a utility provider wishes to submit a request to the Commission pursuant to subsection 1, the utility provider must include the request in its resource plan which includes the *long-term portfolio energy credits contract, long-term* renewable energy contract or energy efficiency

contract and which is submitted to the Commission for approval pursuant to the provisions of NAC 704.9005 to 704.9525, inclusive.

3. In the request submitted pursuant to subsection 1, the utility provider:

(a) Shall include its estimate of the amount of the impact of imputed debt on the capital structure of the utility provider measured as a percentage of the net present value of the capacity payments over the life of the contract;

(b) Shall, if the capacity of the portfolio energy system or efficiency measure is not specified in the contract, propose the percentage of the value of the contract payment to be assumed as a capacity payment; and

(c) May propose an amount to be added to the cost of the contract which is equal to a compensating component in the capital structure of the utility provider. A utility requesting an amount to be added to the cost of a *long-term portfolio energy credits contract, long-term renewable energy contract or energy efficiency contract* shall provide information which illustrates the financial impact from any imputed debt cost and any assumptions used to develop related imputed debt calculations.

4. In evaluating a request submitted pursuant to subsection 1, the Commission will consider:

(a) The effect that the proposals in the request will have on the rates paid by the retail customers of the utility provider; and

(b) The recovery of costs equal to a compensating component in the capital structure during the utility provider's next deferred energy rate proceeding.

5. If the Commission approves a request submitted pursuant to subsection 1:

(a) The Commission will set forth in its order approving the request the impact of imputed debt on the capital structure of the utility provider measured as a percentage of the net present value of the capacity payments over the life of the contract;

(b) The costs, if any, determined by the Commission as necessary to mitigate imputed debt costs will be collected with other contract costs as a component of the base tariff energy rate; and

(c) The utility provider shall segregate imputed debt revenues from deferred energy revenues and record such revenues as general rate revenues in general rate cases.

6. As used in this section:

(a) “Capacity payment” means the payment for the acquisition of a specified quantity of generating capacity over a specified period of time.

(b) “Compensating component” means the imputed equity necessary to offset the effects of the imputed debt associated with a *long-term portfolio energy credits contract, long-term renewable energy contract or energy efficiency contract*.

**Sec. 15.** NAC 704.8894 is hereby amended to read as follows:

704.8894 The Commission may order a utility provider to establish and participate in a temporary renewable energy development program to assist with the completion of new renewable energy projects associated with Commission-approved renewable energy or ~~renewable~~ *portfolio* energy credits contracts. In determining whether to require a utility provider to establish and participate in 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 impeded 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 a TRED trust will alleviate those impediments to completing a new renewable energy project in accordance with Commission-approved renewable energy or ~~renewable~~ *portfolio* energy credits contracts; and

4. Whether the use of a TRED trust is necessary and reasonable to ensure that the utility provider complies with its renewable energy portfolio standard.

**Sec. 16.** NAC 704.8896 is hereby amended to read as follows:

704.8896 The Commission will, upon request by a new renewable energy project either during proceedings establishing a TRED program or at the time that a ~~new~~ *long-term* renewable energy or ~~renewable~~ *long-term portfolio* energy credits contract is submitted for the approval of the Commission, designate which new renewable energy projects associated with Commission-approved *long-term* renewable energy or ~~renewable~~ *long-term portfolio* energy credits contracts are eligible to participate in the TRED program established, or to be established, by the utility provider. The Commission will consider the factors set forth in NAC 704.8894 to determine eligibility of such projects.

**Sec. 17.** NAC 704.8897 is hereby amended to read as follows:

704.8897 1. Within 30 days after the issuance of an order by the Commission to establish a TRED program, the utility provider shall appoint a third-party professional trustee acceptable to the Commission and shall take all actions necessary to initiate a temporary renewable energy development trust. The TRED trust shall receive money collected by the utility provider from retail customers pursuant to a temporary renewable energy development charge and disburse that

money to eligible new renewable energy projects. The TRED trust has the sole right to receive revenue generated by the TRED charge, and the right to receive such revenue constitutes a current property right granted to and vested in the TRED trust.

2. The utility provider shall file an executed copy of the trust agreement between the utility provider and the trustee of the TRED trust with the Commission for its approval.

3. The trust agreement must contain a provision establishing a minimum level of reserve for the TRED trust that is equal to three times the highest projected monthly payment to each eligible new renewable energy project for the period during which the TRED charge will be in effect.

4. The costs incurred by a utility provider to initiate and maintain a TRED trust, including, without limitation, the cost of reserves advanced by the utility provider to the TRED trust, the taxes assessed on the utility provider for amounts related to the TRED trust and the fees charged by the trustee, must be considered expenses associated with the acquisition of purchased power. The amount must be booked by the utility provider in FERC Account No. 182.3 and may be recovered by the utility provider pursuant to the deferred energy accounting process set forth in NAC 704.023 to 704.195, inclusive.

5. Once the TRED charge is established by an order of the Commission issued pursuant to NAC 704.8898, the utility provider shall begin collecting the TRED charge from its retail customers. Beginning with the first full calendar week thereafter and continuing once each week following, the utility provider shall estimate and remit to the TRED trust the total amount collected pursuant to the TRED charge through the last calendar day of the previous collection period.

6. On the 20th calendar day of each month, the utility provider shall provide the trustee of the TRED trust with a statement showing the calculation of the amounts to be disbursed to each eligible new renewable energy project in accordance with its respective renewable energy or ~~renewable~~ *portfolio* energy credits contracts based on the production of each eligible new renewable energy project during the previous calendar month. The TRED trust shall, within 7 calendar days after receiving the statement from the utility provider, remit payment to each eligible new renewable energy project in accordance with the statement.

**Sec. 18.** NAC 704.8898 is hereby amended to read as follows:

704.8898 1. Once a TRED program is established by order of the Commission and the utility provider has established a TRED trust, the utility provider shall, concurrent with the filing of its next annual deferred energy application, seek Commission authorization to establish or continue, as revised, a temporary renewable energy development charge.

2. The TRED charge must be determined in accordance with the following formula:

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

Where:

PC = the 12-month projected cost of renewable energy or ~~renewable~~ *portfolio* energy credits to be delivered to the utility provider from new renewable energy projects eligible for the TRED program, determined as the sum from all eligible new renewable energy projects of the product of the 12-month projected production from each eligible new renewable energy project at the rates set forth in each of the Commission-approved renewable energy or ~~renewable~~ *portfolio* energy credits contracts for each eligible new



renewable energy project, plus the projected tax liability for the 12 months for the TRED trust.

RA = the adjustment to increase or decrease the reserve, which must equal the sum of the reserves for each of the renewable energy or ~~renewable~~ *portfolio* energy credits contracts approved for payment in accordance with NAC 704.8897.

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

3. The utility provider shall seek review of each element of the TRED charge at least once each year, concurrent with the filing by the utility provider of its annual deferred energy application.

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

5. Once the TRED charge is established pursuant to this section, that amount must be collected by the utility provider on behalf of the TRED trust until that amount is revised pursuant to subsection 3 or 4 or is revised after the participation of a new renewable energy project is terminated pursuant to NAC 704.8899.

**Sec. 19.** NAC 704.9113 is hereby amended to read as follows:

704.9113 “Long-term purchased power obligation” means:

1. A ~~[new]~~ *long-term portfolio energy credits contract, long-term* renewable energy contract *or energy efficiency contract* that must be submitted to the Commission for approval pursuant to NAC 704.8885 ; ~~[, regardless of the term of the contract, or the amount of capacity or electric energy, or both, to be acquired pursuant to the contract;]~~ and

2. Any other contract, including a multiple seasonal contract ~~[, for the purchase of more than 5 megawatts and having]~~, *with* a term of *more than* 3 years . ~~[or more.]~~

**Sec. 20.** NAC 704.8841 and 704.8847 are hereby repealed.

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### TEXT OF REPEALED SECTIONS

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**704.8841** “New renewable energy contract” defined. (NRS 703.025, 704.210, 704.7828)

“New renewable energy contract” means a renewable energy contract that is executed on or after May 31, 2002.

**704.8847** “Preexisting renewable energy contract” defined. (NRS 703.025, 704.210,

**704.7828)** “Preexisting renewable energy contract” means a renewable energy contract:

1. Which was executed before May 31, 2002; and
2. Which is pending approval by the Commission or which the Commission has approved as a preexisting renewable energy contract.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS  
AS REQUIRED BY NRS 233B.066  
LCB FILE R064-10  
(DOCKET NO. 09-12005)**

The following informational statement is submitted for adopted amendments to Nevada Administrative Code Chapter 703.

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

Copies of the proposed regulations, 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 (“PUCN”), <http://puc.nv.gov>, mailed to all county libraries in Nevada, published in the following newspapers:

Elko Daily Free Press  
Las Vegas Review Journal  
Nevada Appeal  
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  
101 Convention Center Drive, Suite 250  
Las Vegas, Nevada 89109

First Judicial District Court  
885 East Musser Street  
Carson City, Nevada 89701

Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501

Eighth Judicial District Court  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, Nevada 89155

Western Resource Advocates (“WRA”) expressed reservations with the approval process for large, short-term renewable energy contracts. WRA was concerned that such contracts could be used simply as a matter of papering over the shortfall with no discernible effect on the development of renewable energy. NV Energy explained that it does not anticipate relying on short-term contracts to make up the bulk of their energy and credits for compliance with the renewable portfolio standard.

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 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

2. **The number of persons who:**
  - (a) **Attended each hearing:** June 17, 2010 - 5
  - (b) **Testified at each hearing:** June 17, 2010 - 4
  - (c) **Submitted to the agency written comments:** 3
3. **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation 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.

The summary may be obtained as instructed in the response to question #1.

4. **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 permanent regulations were adopted on July 14, 2010. Changes were made to the proposed regulation.

5. **The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**
  - (a) **Both adverse and beneficial effects; and**
  - (b) **Both immediate and long-term effects.**

(a) Both adverse and beneficial effects:

The regulations could actually have the effect of lowering electric rates over time since the electric utilities may be able to lock in cheaper renewable energy contracts because the utilities can act more quickly without the requirement of resource planning approval. The regulations are not likely to have any adverse effects since they simply shift the timing of the review of short-term renewable energy contracts to a later date in the appropriate deferred energy accounting proceeding.

(b) Both immediate and long-term effects:

See Item # 5(a).

6. **The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the agency for enforcement of these regulations.

- 7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

These regulations do not overlap or duplicate any federal, state, or local regulations.

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

N/A

- 9. 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

- 10. If the proposed regulation is likely to impose a direct and significant economic 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 PUCN has determined that the proposed regulations do not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business. In making this determination, the PUCN adopted the findings of Staff, which conducted a Delphi Method exercise to determine the impacts. The Delphi Method is a systematic, interactive, forecasting method based on independent inputs of selected experts.

**BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA**

Investigation and rulemaking regarding the )  
applicability of NAC 704.8885(1), 704.9113 )  
and 704.9512(1)(a) to short-term energy and ) Docket No. 09-12005  
portfolio energy credit transactions. )  
\_\_\_\_\_)

At a general session of the Public  
Utilities Commission of Nevada,  
held at its offices on July 12, 2010.

PRESENT: Chairman Sam A. Thompson  
Commissioner Rebecca D. Wagner  
Commissioner Alaina Burtenshaw  
Acting Assistant Commission Secretary Breanne Breuer

**ORDER ADOPTING PROPOSED REGULATIONS AS PERMANENT**

The Public Utilities Commission of Nevada (“Commission”) makes the following findings of fact and conclusions of law:

1. On December 16, 2009, the Commission voted to open an investigation and rulemaking regarding the applicability of Nevada Administrative Code (“NAC”) 704.8885(1), 704.9113 and 704.9512(1)(a) to short-term energy and portfolio energy credit transactions. The investigation and rulemaking is designated as Docket No. 09-12005.
2. This investigation and rulemaking was opened pursuant to the Nevada Revised Statutes (“NRS”) and the Nevada Administrative Code Chapters 233B, 703, and 704.
3. On January 25, 2010, the Commission issued a Notice of Request for Comments and Proposed Language and Notice of Workshop.
4. On February 18, 2010, comments were filed by Sierra Pacific Power Company d/b/a NV Energy and Nevada Power Company d/b/a NV Energy (collectively, “NV Energy”) and the

Regulatory Operations Staff (“Staff”) of the Commission. Reply comments were filed by Staff and NV Energy on March 3 and 4, 2010, respectively.

5. On March 9, 2010, the Commission held a workshop. Appearances were made by the Attorney General’s Bureau of Consumer Protection (“BCP”), NV Energy, and Staff.

6. On April 12, 2010, the proposed regulations were sent to the Legislative Counsel Bureau (“LCB”) for review pursuant to NRS 233B.063.

7. On April 13, 2010, the Hearing Officer issued a Procedural Order. The proposed regulations were attached. Staff was directed to conduct an investigation pursuant to NRS 233B.0608 to determine whether the proposed regulations issued by the Hearing Officer are likely to: (a) impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business.

8. On April 26, 2010, the proposed regulations (LCB File No. 064-10) were returned to the Commission by LCB in revised form.

9. On April 29, 2010, the Commission issued a Notice of Intent to Act Upon a Regulation, Notice of Workshop and Notice of Hearing for the Adoption, Amendment and Repeal of Regulations of the Public Utilities Commission of Nevada.

10. On May 28, 2010, following Staff’s recommendation at Utility Agenda 09-10, the Commission issued an Order finding that the proposed regulations do not impose a direct and significant economic burden upon small businesses, nor do they directly restrict the formation, operation, or expansion of a small business.

11. On June 4, 2010, comments were received by NV Energy, Ormat Nevada, Inc. (“Ormat”), and Western Resource Advocates (“WRA”).

12. On June 16, 2010, a workshop was held. Appearances were made by BCP, NV Energy, Ormat, Staff, and WRA.

13. On June 17, 2010, a hearing was held. Appearances were made by BCP, NV Energy, Staff, and WRA

14. The Commission believes that the proposed regulations will allow NV Energy flexibility to enter into short-term contracts without having to obtain a waiver of the current resource planning process for approving such contracts. Instead, the prudence of these short-term contracts will now be reviewed in the appropriate deferred energy filing at a later date.

15. The Commission finds that it is in the public interest to adopt as permanent the proposed regulations attached hereto as Attachment 1.

THEREFORE, based on the foregoing findings of fact and conclusions of law, it is hereby ORDERED that:

1. The proposed regulations attached hereto as Attachment 1 are ADOPTED AS PERMANENT pursuant to NRS 233B.063.

2. The Commission retains jurisdiction for the purpose of correcting any errors that may have occurred in the drafting or issuance of the Order.

By the Commission,

/s/  
SAM A. THOMPSON, Chairman

/s/  
REBECCA D. WAGNER, Commissioner

/s/  
ALAINA BURTENSCHAW, Commissioner



Attest: \_\_\_\_\_/s/  
BREANNE BREUER,  
Acting Assistant Commission Secretary

Dated: Carson City, Nevada

7-14-10

(SEAL)