
ASSEMBLY BILL NO. 32—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON LOCAL
GOVERNMENT TAXES AND FINANCE)

PREFILED JANUARY 30, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing payment and collection of certain taxes, fees and assessments relating to purchase of natural gas or energy, capacity or ancillary services under certain circumstances. (BDR 58-626)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: No.

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

AN ACT relating to energy; requiring a customer of a public utility or alternative seller to pay certain taxes, fees and assessments relating to the purchase of natural gas or energy, capacity or ancillary services under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 704 of NRS is hereby amended by adding
2 thereto a new section to read as follows:
3 1. *Each public utility that elects to be regulated under an*
4 *alternative plan of regulation pursuant to NRS 704.997 shall*
5 *collect from each customer who is purchasing natural gas from*
6 *the public utility under the alternative plan of regulation any tax,*
7 *fee or assessment that would be due a governmental entity had the*
8 *customer continued to purchase natural gas from a public utility*
9 *that was regulated fully by the Commission pursuant to NRS*
10 *704.001 to 704.960, inclusive.*



1 2. *Each alternative seller shall collect from each customer*
2 *who is purchasing natural gas from the alternative seller any tax,*
3 *fee or assessment that would be due a governmental entity had the*
4 *customer continued to purchase natural gas from a public utility*
5 *that was regulated fully by the Commission pursuant to NRS*
6 *704.001 to 704.960, inclusive.*

7 3. *Each person who is responsible for billing a customer who*
8 *is purchasing natural gas from a public utility under an*
9 *alternative plan of regulation or from an alternative seller shall*
10 *ensure that the amount which the customer must pay pursuant to*
11 *this section is set forth as a separate item or entry on each bill*
12 *submitted to the customer.*

13 **Sec. 2.** NRS 704.993 is hereby amended to read as follows:
14 704.993 As used in NRS 704.993 to 704.999, inclusive, *and*
15 *section 1 of this act*, unless the context otherwise requires, the
16 words and terms defined in NRS 704.994, 704.995 and 704.996
17 have the meanings ascribed to them in those sections.

18 **Sec. 3.** NRS 704.997 is hereby amended to read as follows:
19 704.997 1. ~~Upon~~ *Except as otherwise provided in this*
20 *section, upon* the receipt of a specific request for an exemption by a
21 public utility that supplies natural gas, the Commission may, to the
22 extent it deems necessary, exempt any service offered by the public
23 utility from the strict application of one or more provisions of this
24 chapter. Such an exemption may be made only upon a determination
25 by the Commission, after notice and an opportunity for a hearing,
26 that the service is competitive, discretionary or potentially
27 competitive.

28 2. The Commission shall adopt regulations necessary to
29 establish an alternative plan of regulation of a public utility that
30 supplies natural gas and that is otherwise subject to regulation
31 pursuant to the provisions of this chapter. The alternative plan may
32 include, but is not limited to, provisions that:

33 (a) Allow adjustment of the rates charged by the public utility
34 during the period in which the utility elects the alternative plan of
35 regulation.

36 (b) ~~Specify~~ *Except as otherwise provided in this section,*
37 *specify* the provisions of this chapter that do not apply to a public
38 utility which elects to be regulated under the alternative plan.

39 (c) Provide for flexibility of pricing for services that are
40 discretionary, competitive or potentially competitive.

41 3. A public utility that elects to be regulated under the
42 alternative plan established pursuant to this section ~~is~~:

43 (a) *Remains subject to the provisions of NRS 704.033 and*
44 *704.035 and section 1 of this act; and*



1 **(b) Is** not subject to the remaining provisions of this chapter to
2 the extent specified pursuant to this section.

3 4. In providing a potentially competitive service, an affiliate of
4 a provider of a noncompetitive service may use the name or logo, or
5 both, of the provider of noncompetitive service.

6 5. It is unlawful for an alternative seller to sell any service
7 relating to the supply of natural gas to a customer for his
8 consumption within this state without first having obtained a license
9 from the Commission to do so.

10 **Sec. 4.** Chapter 704B of NRS is hereby amended by adding
11 thereto a new section to read as follows:

12 **1. If the Commission approves an application that is filed**
13 **pursuant to NRS 704B.310, the Commission shall order the**
14 **eligible customer to pay:**

15 **(a) Its share of the annual assessment levied pursuant to NRS**
16 **704.033 to the Commission and the Bureau of Consumer**
17 **Protection in the Office of the Attorney General; and**

18 **(b) Any other tax, fee or assessment that would be due a**
19 **governmental entity had the eligible customer continued to**
20 **purchase energy, capacity or ancillary services from the electric**
21 **utility.**

22 **2. Each person or entity that is responsible for billing an**
23 **eligible customer shall ensure that the amount which the eligible**
24 **customer must pay pursuant to this section is set forth as a**
25 **separate item or entry on each bill submitted to the eligible**
26 **customer.**

27 **Sec. 5.** NRS 704B.310 is hereby amended to read as follows:

28 704B.310 1. An eligible customer that is purchasing electric
29 service from an electric utility shall not purchase energy, capacity or
30 ancillary services from a provider of new electric resources and an
31 eligible customer that is purchasing energy, capacity or ancillary
32 services from a provider of new electric resources shall not purchase
33 energy, capacity or ancillary services from another provider unless:

34 (a) The eligible customer files an application with the
35 Commission not later than 180 days before the date on which the
36 eligible customer intends to begin purchasing energy, capacity or
37 ancillary services from the provider; and

38 (b) The Commission approves the application by a written order
39 issued in accordance with the provisions of this section and
40 NRS 704B.320.

41 The date on which the eligible customer intends to begin purchasing
42 energy, capacity or ancillary services from the provider must not be
43 sooner than the date on which the provider is authorized by NRS
44 704B.300 to begin selling energy, capacity or ancillary services to
45 the eligible customer.



- 1 2. Except as otherwise provided in subsection 3, each
2 application filed pursuant to this section must include:
- 3 (a) Information demonstrating that the person filing the
4 application is an eligible customer;
- 5 (b) Information demonstrating that the proposed provider will
6 provide energy, capacity or ancillary services from a new electric
7 resource;
- 8 (c) Information concerning the terms and conditions of the
9 proposed transaction that is necessary for the Commission to
10 evaluate the impact of the proposed transaction on customers and
11 the public interest, including, without limitation, information
12 concerning the duration of the proposed transaction and the amount
13 of energy, capacity or ancillary services to be purchased from the
14 provider; and
- 15 (d) Any other information required pursuant to the regulations
16 adopted by the Commission.
- 17 3. Except as otherwise provided in NRS 704B.320, the
18 Commission shall not require the eligible customer or provider to
19 disclose:
- 20 (a) The price that is being paid by the eligible customer to
21 purchase energy, capacity or ancillary services from the provider; or
22 (b) Any other terms or conditions of the proposed transaction
23 that the Commission determines are commercially sensitive.
- 24 4. The Commission shall provide public notice of the
25 application of the eligible customer and an opportunity for a hearing
26 on the application in a manner that is consistent with the provisions
27 of NRS 703.320 and the regulations adopted by the Commission.
- 28 5. The Commission shall approve the application of the eligible
29 customer unless the Commission finds that the proposed transaction:
- 30 (a) Will be contrary to the public interest; or
31 (b) Does not comply with the provisions of NRS 704B.320, if
32 those provisions apply to the proposed transaction.
- 33 6. In determining whether the proposed transaction will be
34 contrary to the public interest, the Commission shall consider,
35 without limitation:
- 36 (a) Whether the electric utility that has been providing electric
37 service to the eligible customer will be burdened by increased costs
38 as a result of the proposed transaction or whether any remaining
39 customer of the electric utility will pay increased costs for electric
40 service as a result of the proposed transaction;
- 41 (b) Whether the proposed transaction will impair system
42 reliability or the ability of the electric utility to provide electric
43 service to its remaining customers; and
- 44 (c) Whether the proposed transaction will add energy, capacity
45 or ancillary services to the supply in this state.



1 7. If the Commission approves the application of the eligible
2 customer:

3 (a) The eligible customer shall not begin purchasing energy,
4 capacity or ancillary services from the provider pursuant to the
5 proposed transaction sooner than 180 days after the date on which
6 the application was filed; and

7 (b) The Commission shall order such terms, conditions and
8 payments as the Commission deems necessary and appropriate to
9 ensure that the proposed transaction will not be contrary to the
10 public interest. Such terms, conditions and payments:

11 (1) Must be fair and nondiscriminatory as between the
12 eligible customer and the remaining customers of the electric utility;
13 and

14 (2) Must include, without limitation ~~[-payment]~~ :

15 (I) *Payment* by the eligible customer to the electric utility
16 of the eligible customer's load-share portion of any unrecovered
17 balance in the deferred accounts of the electric utility ~~[-]~~ ; and

18 (II) *Payment by the eligible customer of the annual*
19 *assessment and any other tax, fee or assessment required by*
20 *section 4 of this act.*

21 8. If the Commission does not enter a final order on the
22 application of the eligible customer within 90 days after the date on
23 which the application was filed with the Commission:

24 (a) The application shall be deemed to be approved by the
25 Commission; and

26 (b) The eligible customer shall not begin purchasing energy,
27 capacity or ancillary services from the provider pursuant to the
28 proposed transaction sooner than 180 days after the date on which
29 the application was filed.

30 **Sec. 6.** This act becomes effective on July 1, 2003.

