

REQUIRES TWO-THIRDS MAJORITY VOTE (§§ 8, 9, 15)

(Reprinted with amendments adopted on May 14, 2003)

SECOND REPRINT

A.B. 32

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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 certain provisions governing public utilities, alternative sellers, providers of discretionary natural gas service, providers of new electric resources and eligible customers. (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.

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AN ACT relating to energy; prohibiting the disclosure of certain information concerning alternative sellers, providers of discretionary natural gas service and providers of new electric resources; requiring certain public utilities, alternative sellers, providers of discretionary natural gas service and providers of new electric resources to keep uniform and detailed accounts of all applicable business transacted in this state and to furnish an annual report to the Commission and affected governmental entities; imposing a civil penalty against an alternative seller, provider of discretionary natural gas service or provider of new electric resources who violates certain provisions; requiring an eligible customer and a customer of a public utility, alternative seller and provider of discretionary natural gas service 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.



\* A B 3 2 R 2 \*

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

1     **Section 1.** 703.010 is hereby amended to read as follows:  
2     703.010 As used in this chapter, unless the context otherwise  
3 requires:

4     1. *“Affected governmental entity” means a governmental*  
5 *entity for which a tax, fee or assessment is collected pursuant to*  
6 *section 8, 9 or 15 of this act.*

7     2. “Alternative seller” means a person who sells any  
8 competitive, discretionary or potentially competitive component of  
9 natural gas service pursuant to NRS 704.993 to 704.999, inclusive.

10    ~~2.~~ 3. “Commission” means the Public Utilities Commission  
11 of Nevada.

12    4. *“Provider of new electric resources” has the meaning*  
13 *ascribed to it in NRS 704B.130.*

14     **Sec. 2.** NRS 703.190 is hereby amended to read as follows:

15     703.190 1. Except as otherwise provided in this section, all  
16 biennial reports, records, proceedings, papers and files of the  
17 Commission must be open at all reasonable times to the public.

18     2. The Commission shall, upon receipt of a request from a  
19 public utility, *alternative seller, provider of discretionary natural*  
20 *gas service or provider of new electric resources*, prohibit the  
21 disclosure of any *applicable* information in ~~its~~ *the* possession *of*  
22 *the Commission or an affected governmental entity* concerning the  
23 public utility, *alternative seller, provider of discretionary natural*  
24 *gas service or provider of new electric resources*, if the  
25 Commission determines that the information would otherwise be  
26 entitled to protection as a trade secret or confidential commercial  
27 information pursuant to NRS 49.325 or 600A.070 or Rule 26(c)(7)  
28 of the Nevada Rules of Civil Procedure. Upon making such a  
29 determination, the Commission shall establish the period during  
30 which the information must not be disclosed and a procedure for  
31 protecting the information during and after that period.

32     **Sec. 3.** NRS 703.191 is hereby amended to read as follows:

33     703.191 1. Each public utility *that is* regulated by the  
34 Commission *or elects to be regulated under an alternative plan of*  
35 *regulation pursuant to NRS 704.997, and each alternative seller,*  
36 *provider of discretionary natural gas service and provider of new*  
37 *electric resources* shall:

38     (a) Keep uniform and detailed accounts of all *applicable*  
39 business transacted in this state ~~in the manner~~ *as* required by the  
40 Commission by regulation, and render them to the Commission *or*  
41 *an affected governmental entity* upon its request.



1 (b) Furnish an annual report , *with respect to all applicable*  
2 *business transacted in this state*, to the Commission *and each*  
3 *affected governmental entity* in the form and detail which ~~the~~ *the*  
4 *Commission* prescribes by regulation.

5 2. The reports required by this section must be prepared for  
6 each calendar year and submitted not later than May 15 of the year  
7 following the year for which the report is submitted.

8 3. If the Commission *or an affected governmental entity* finds  
9 that necessary information *with respect to applicable business*  
10 *transacted in this state* is not contained in a report submitted  
11 pursuant to this section, ~~the~~ *the Commission or affected*  
12 *governmental entity* may call for the omitted information at any  
13 time.

14 **Sec. 4.** NRS 703.195 is hereby amended to read as follows:

15 703.195 1. Except as otherwise provided in subsection 2, any  
16 Commissioner , ~~or~~ any officer or employee of the Commission  
17 who is designated by the Commission, *or any officer or employee*  
18 *of an affected governmental entity who is designated by the*  
19 *affected governmental entity* may examine during regular business  
20 hours the books, accounts, records, minutes, papers and property of  
21 any public utility , *alternative seller, provider of discretionary*  
22 *natural gas service or provider of new electric resources* who does  
23 business in this state, *with respect to such business, regardless of*  
24 whether ~~for not~~ the book, account, record, minutes, paper or  
25 property is located within this state.

26 2. No personnel records of an employee may be examined  
27 pursuant to subsection 1 unless the records contain information  
28 relating to a matter of public safety or the Commission determines  
29 that the examination is required to protect the interests of the public.

30 3. As used in this section, "personnel records" does not  
31 include:

- 32 (a) The name of the employee who is the subject of the record;
- 33 (b) The gross compensation and perquisites of the employee;
- 34 (c) Any record of the business expenses of the employee;
- 35 (d) The title or any description of the position held by the  
36 employee;
- 37 (e) The qualifications required for the position held by the  
38 employee;
- 39 (f) The business address of the employee;
- 40 (g) The telephone number of the employee at his place of  
41 business;
- 42 (h) The work schedule of the employee;
- 43 (i) The date on which the employee began his employment; and
- 44 (j) If applicable, the date on which the employment of the  
45 employee was terminated.



1       **Sec. 5.** NRS 703.196 is hereby amended to read as follows:  
2       703.196 1. Any books, accounts, records, minutes, papers  
3 and property of any public utility , *alternative seller, provider of*  
4 *discretionary natural gas service or provider of new electric*  
5 *resources* that are subject to examination pursuant to NRS 703.190  
6 or 703.195 and are made available to the Commission, any officer or  
7 employee of the Commission, *an affected governmental entity, any*  
8 *officer or employee of an affected governmental entity*, the Bureau  
9 of Consumer Protection in the Office of the Attorney General or any  
10 other person under the condition that the disclosure of such  
11 information to the public be withheld or otherwise limited, must not  
12 be disclosed to the public unless the Commission first determines  
13 that the disclosure is justified.

14       2. The Commission shall take such actions as are necessary to  
15 protect the confidentiality of such information, including, without  
16 limitation:

17       (a) Granting such protective orders as it deems necessary; and  
18       (b) Holding closed hearings to receive or examine such  
19 information.

20       3. If the Commission closes a hearing to receive or examine  
21 such information, it shall:

22       (a) Restrict access to the records and transcripts of such hearings  
23 without the prior approval of the Commission or an order of a court  
24 of competent jurisdiction authorizing access to the records or  
25 transcripts; and

26       (b) Prohibit any participant at such a hearing from disclosing  
27 such information without the prior authorization of the Commission.

28       4. A representative of the regulatory operations staff of the  
29 Commission and the Bureau of Consumer Protection:

30       (a) May attend any closed hearing held pursuant to this section;  
31 and

32       (b) Have access to any records or other information determined  
33 to be confidential pursuant to this section.

34       5. The Commission shall consider in an open meeting whether  
35 the information reviewed or examined in a closed hearing may be  
36 disclosed without revealing the confidential subject matter of the  
37 information. To the extent the Commission determines the  
38 information may be disclosed, the information must become a part  
39 of the records available to the public. Information which the  
40 Commission determines may not be disclosed must be kept under  
41 seal.

42       **Sec. 6.** NRS 703.380 is hereby amended to read as follows:

43       703.380 1. Unless another penalty is specifically provided,  
44 any public utility , *alternative seller, provider of discretionary*  
45 *natural gas service or provider of new electric resources*, or any



1 officer, agent or employee of a public utility , *alternative seller,*  
2 *provider of discretionary natural gas service or provider of new*  
3 *electric resources* who:

4 (a) Violates any ~~[of the provisions]~~ *applicable provision* of this  
5 chapter or ~~[chapters]~~ *chapter 704, 704B, 705 [and] or 708* of NRS;

6 (b) Violates any rule or regulation of the Commission; or

7 (c) Fails, neglects or refuses to obey any order of the  
8 Commission or any order of a court requiring compliance with an  
9 order of the Commission,

10 is liable for a civil penalty not to exceed \$1,000 per day for each day  
11 of the violation and not to exceed \$100,000 for any related series of  
12 violations.

13 2. The amount of any civil penalty to be imposed pursuant to  
14 this section, and the propriety of any compromise of a penalty, must  
15 be determined by a court of competent jurisdiction upon the  
16 complaint of the Commission.

17 3. Subject to the approval of the court, any civil penalty may be  
18 compromised by the Commission. In determining the amount of the  
19 penalty, or the amount agreed upon in compromise, the  
20 appropriateness of the penalty to the size of the business of  
21 the person charged, the gravity of the violation and the good faith of  
22 the person charged in attempting to achieve compliance, after  
23 notification of a violation, must be considered.

24 4. Any penalty assessed pursuant to this section is not a cost of  
25 service ~~[by the]~~ *of a* public utility and may not be included in any  
26 new application by a public utility for a rate adjustment or rate  
27 increase.

28 **Sec. 7.** Chapter 704 of NRS is hereby amended by adding  
29 thereto the provisions set forth as sections 8 and 9 of this act.

30 **Sec. 8. 1.** *Each provider of discretionary natural gas*  
31 *service shall:*

32 (a) *Collect from each customer who is purchasing natural gas*  
33 *from the provider of discretionary natural gas service any tax, fee*  
34 *or assessment that would be due a governmental entity had the*  
35 *customer continued to purchase natural gas from a public utility*  
36 *that was regulated fully by the Commission pursuant to NRS*  
37 *704.001 to 704.960, inclusive; and*

38 (b) *Remit any tax, fee or assessment collected pursuant to*  
39 *paragraph (a) to the applicable governmental entity.*

40 2. *Each person who is responsible for billing a customer who*  
41 *is purchasing natural gas from a provider of discretionary natural*  
42 *gas service shall ensure that the amount which the customer must*  
43 *pay pursuant to this section is set forth as a separate item or entry*  
44 *on each bill submitted to the customer.*



1       3. *Upon petition by a governmental entity to which a tax, fee*  
2 *or assessment must be remitted pursuant to this section, the*  
3 *Commission may limit, suspend or revoke any license or other*  
4 *authority conferred by the Commission upon a provider of*  
5 *discretionary natural gas service if the Commission, after*  
6 *providing an appropriate notice and hearing, determines that the*  
7 *provider of discretionary natural gas service has failed to pay the*  
8 *tax, fee or assessment.*

9       **Sec. 9. 1.** *Each public utility that elects to be regulated*  
10 *under an alternative plan of regulation pursuant to NRS 704.997*  
11 *shall:*

12       (a) *Collect from each customer who is purchasing natural gas*  
13 *from the public utility under the alternative plan of regulation any*  
14 *tax, fee or assessment that would be due a governmental entity had*  
15 *the customer continued to purchase natural gas from a public*  
16 *utility that was regulated fully by the Commission pursuant to*  
17 *NRS 704.001 to 704.960, inclusive; and*

18       (b) *Remit any tax, fee or assessment collected pursuant to*  
19 *paragraph (a) to the applicable governmental entity.*

20       2. *Each alternative seller shall:*

21       (a) *Collect from each customer who is purchasing natural gas*  
22 *from the alternative seller any tax, fee or assessment that would be*  
23 *due a governmental entity had the customer continued to purchase*  
24 *natural gas from a public utility that was regulated fully by the*  
25 *Commission pursuant to NRS 704.001 to 704.960, inclusive; and*

26       (b) *Remit any tax, fee or assessment collected pursuant to*  
27 *paragraph (a) to the applicable governmental entity.*

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

34       4. *Upon petition by a governmental entity to which a tax, fee*  
35 *or assessment must be remitted pursuant to this section, the*  
36 *Commission may limit, suspend or revoke any license or other*  
37 *authority conferred by the Commission upon a public utility or*  
38 *alternative seller if the Commission, after providing an*  
39 *appropriate notice and hearing, determines that the public utility*  
40 *or alternative seller has failed to pay the tax, fee or assessment.*

41       **Sec. 10.** NRS 704.635 is hereby amended to read as follows:

42       704.635 When a complaint has been filed with the Commission  
43 alleging that a person is providing a service which requires a  
44 certificate of public convenience and necessity, or when the  
45 Commission has reason to believe that any provision of NRS



1 704.005 to 704.751, inclusive, *and section 8 of this act* is being  
2 violated, the Commission shall investigate the operation and may,  
3 after a hearing, issue an order requiring that the person cease and  
4 desist from any operation in violation of NRS 704.005 to 704.751,  
5 inclusive ~~H~~, *and section 8 of this act*. The Commission shall  
6 enforce the order under the powers vested in the Commission by  
7 NRS 704.005 to 704.751, inclusive, *and section 8 of this act* or  
8 other law.

9 **Sec. 11.** NRS 704.640 is hereby amended to read as follows:

10 704.640 Except as otherwise provided in NRS 704.281 to  
11 704.284, inclusive, any person who:

12 1. Operates any public utility to which NRS 704.005 to  
13 704.751, inclusive, *and section 8 of this act* and 704.993 to  
14 704.999, inclusive, *and section 9 of this act* apply without first  
15 obtaining a certificate of public convenience and necessity or in  
16 violation of its terms;

17 2. Fails to make any return or report required by NRS 704.005  
18 to 704.751, inclusive, *and section 8 of this act* and 704.993 to  
19 704.999, inclusive, *and section 9 of this act* or by the Commission  
20 pursuant to NRS 704.005 to 704.751, inclusive, *and section 8 of*  
21 *this act* and 704.993 to 704.999, inclusive ~~H~~, *and section 9 of this*  
22 *act*;

23 3. Violates, or procures, aids or abets the violating of any  
24 provision of NRS 704.005 to 704.751, inclusive, *and section 8 of*  
25 *this act* and 704.993 to 704.999, inclusive ~~H~~, *and section 9 of this*  
26 *act*;

27 4. Fails to obey any order, decision or regulation of the  
28 Commission;

29 5. Procures, aids or abets any person in his failure to obey the  
30 order, decision or regulation; or

31 6. Advertises, solicits, proffers bids or otherwise holds himself  
32 out to perform as a public utility in violation of any of the  
33 provisions of NRS 704.005 to 704.751, inclusive, *and section 8 of*  
34 *this act* and 704.993 to 704.999, inclusive, *and section 9 of this*  
35 *act*,

36 shall be fined not more than \$500.

37 **Sec. 12.** NRS 704.660 is hereby amended to read as follows:

38 704.660 1. Any public utility which furnishes, for  
39 compensation, any water for domestic purposes shall furnish each  
40 city, town, village or hamlet which it serves with a reasonably  
41 adequate supply of water at reasonable pressure for fire protection  
42 and at reasonable rates, all to be fixed and determined by the  
43 Commission.

44 2. The duty to furnish a reasonably adequate supply of water  
45 provided for in subsection 1 includes the laying of mains with all





1 necessary connections for the proper delivery of the water for fire  
2 protection and also the installing of appliances to assure a  
3 reasonably sufficient pressure for fire protection.

4 3. The Commission may fix and determine reasonable rates  
5 and prescribe all installations and appliances adequate for the proper  
6 utilization and delivery of water for fire protection. The  
7 Commission may adopt regulations and practices to be followed by  
8 a utility in furnishing water for fire protection, and has complete  
9 jurisdiction of all questions arising under the provisions of this  
10 section.

11 4. All proceedings under this section must be conducted  
12 pursuant to NRS 703.320 to 703.370, inclusive, and 704.005 to  
13 704.645, inclusive ~~[ ]~~, *and section 8 of this act*. All violations of  
14 any order made by the Commission under the provisions of this  
15 section are subject to the penalties for similar violations of the  
16 provisions of NRS 704.005 to 704.645, inclusive ~~[ ]~~, *and section 8*  
17 *of this act*.

18 5. This section applies to and governs all public utilities  
19 furnishing water for domestic use on March 26, 1913, unless  
20 otherwise expressly provided in the charters, franchises or permits  
21 under which those utilities are acting. Each public utility which  
22 supplies water for domestic uses after March 26, 1913, is subject to  
23 the provisions of this section, regardless of any conditions to the  
24 contrary in any charter, franchise or permit of whatever character  
25 granted by any county, city, town, village or hamlet within this state,  
26 or of any charter, franchise or permit granted by any authority  
27 outside this state.

28 **Sec. 13.** NRS 704.993 is hereby amended to read as follows:  
29 704.993 As used in NRS 704.993 to 704.999, inclusive, *and*  
30 *section 9 of this act*, unless the context otherwise requires, the  
31 words and terms defined in NRS 704.994, 704.995 and 704.996  
32 have the meanings ascribed to them in those sections.

33 **Sec. 14.** NRS 704.997 is hereby amended to read as follows:  
34 704.997 1. ~~[Upon]~~ *Except as otherwise provided in this*  
35 *section, upon* the receipt of a specific request for an exemption by a  
36 public utility that supplies natural gas, the Commission may, to the  
37 extent it deems necessary, exempt any service offered by the public  
38 utility from the strict application of one or more provisions of this  
39 chapter. Such an exemption may be made only upon a determination  
40 by the Commission, after notice and an opportunity for a hearing,  
41 that the service is competitive, discretionary or potentially  
42 competitive.

43 2. The Commission shall adopt regulations necessary to  
44 establish an alternative plan of regulation of a public utility that  
45 supplies natural gas and that is otherwise subject to regulation





1 pursuant to the provisions of this chapter. The alternative plan may  
2 include, but is not limited to, provisions that:

3 (a) Allow adjustment of the rates charged by the public utility  
4 during the period in which the utility elects the alternative plan of  
5 regulation.

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

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

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

13 (a) *Remains subject to the provisions of NRS 704.033 and*  
14 *704.035 and section 9 of this act; and*

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

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

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

24 **Sec. 15.** Chapter 704B of NRS is hereby amended by adding  
25 thereto a new section to read as follows:

26 1. *If the Commission approves an application that is filed*  
27 *pursuant to NRS 704B.310, the Commission shall order the*  
28 *eligible customer to:*

29 (a) *Pay its share of the annual assessment levied pursuant to*  
30 *NRS 704.033 to the Commission and the Bureau of Consumer*  
31 *Protection in the Office of the Attorney General;*

32 (b) *Pay any other tax, fee or assessment that would be due a*  
33 *governmental entity had the eligible customer continued to*  
34 *purchase energy, capacity or ancillary services from the electric*  
35 *utility; and*

36 (c) *Remit any tax, fee or assessment collected pursuant to*  
37 *paragraph (b) to the applicable governmental entity.*

38 2. *Each person or entity that is responsible for billing an*  
39 *eligible customer shall ensure that the amount which the eligible*  
40 *customer must pay pursuant to paragraph (b) of subsection 1 is set*  
41 *forth as a separate item or entry on each bill submitted to the*  
42 *eligible customer.*

43 3. *Upon petition by a governmental entity to which a tax, fee*  
44 *or assessment must be remitted pursuant to this section, the*  
45 *Commission may limit, suspend or revoke any order issued to an*



1 *eligible customer by the Commission pursuant to NRS 704B.310*  
2 *and 704B.320 if the Commission, after providing an appropriate*  
3 *notice and hearing, determines that the eligible customer has*  
4 *failed to pay the tax, fee or assessment.*

5 **Sec. 16.** NRS 704B.310 is hereby amended to read as follows:  
6 704B.310 1. An eligible customer that is purchasing electric  
7 service from an electric utility shall not purchase energy, capacity or  
8 ancillary services from a provider of new electric resources and an  
9 eligible customer that is purchasing energy, capacity or ancillary  
10 services from a provider of new electric resources shall not purchase  
11 energy, capacity or ancillary services from another provider unless:

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

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

19 The date on which the eligible customer intends to begin purchasing  
20 energy, capacity or ancillary services from the provider must not be  
21 sooner than the date on which the provider is authorized by NRS  
22 704B.300 to begin selling energy, capacity or ancillary services to  
23 the eligible customer.

24 2. Except as otherwise provided in subsection 3, each  
25 application filed pursuant to this section must include:

26 (a) Information demonstrating that the person filing the  
27 application is an eligible customer;

28 (b) Information demonstrating that the proposed provider will  
29 provide energy, capacity or ancillary services from a new electric  
30 resource;

31 (c) Information concerning the terms and conditions of the  
32 proposed transaction that is necessary for the Commission to  
33 evaluate the impact of the proposed transaction on customers and  
34 the public interest, including, without limitation, information  
35 concerning the duration of the proposed transaction and the amount  
36 of energy, capacity or ancillary services to be purchased from the  
37 provider; and

38 (d) Any other information required pursuant to the regulations  
39 adopted by the Commission.

40 3. Except as otherwise provided in NRS 704B.320, the  
41 Commission shall not require the eligible customer or provider to  
42 disclose:

43 (a) The price that is being paid by the eligible customer to  
44 purchase energy, capacity or ancillary services from the provider; or



- 1 (b) Any other terms or conditions of the proposed transaction  
2 that the Commission determines are commercially sensitive.
- 3 4. The Commission shall provide public notice of the  
4 application of the eligible customer and an opportunity for a hearing  
5 on the application in a manner that is consistent with the provisions  
6 of NRS 703.320 and the regulations adopted by the Commission.
- 7 5. The Commission shall approve the application of the eligible  
8 customer unless the Commission finds that the proposed transaction:  
9 (a) Will be contrary to the public interest; or  
10 (b) Does not comply with the provisions of NRS 704B.320, if  
11 those provisions apply to the proposed transaction.
- 12 6. In determining whether the proposed transaction will be  
13 contrary to the public interest, the Commission shall consider,  
14 without limitation:  
15 (a) Whether the electric utility that has been providing electric  
16 service to the eligible customer will be burdened by increased costs  
17 as a result of the proposed transaction or whether any remaining  
18 customer of the electric utility will pay increased costs for electric  
19 service as a result of the proposed transaction;  
20 (b) Whether the proposed transaction will impair system  
21 reliability or the ability of the electric utility to provide electric  
22 service to its remaining customers; and  
23 (c) Whether the proposed transaction will add energy, capacity  
24 or ancillary services to the supply in this state.
- 25 7. If the Commission approves the application of the eligible  
26 customer:  
27 (a) The eligible customer shall not begin purchasing energy,  
28 capacity or ancillary services from the provider pursuant to the  
29 proposed transaction sooner than 180 days after the date on which  
30 the application was filed; and  
31 (b) The Commission shall order such terms, conditions and  
32 payments as the Commission deems necessary and appropriate to  
33 ensure that the proposed transaction will not be contrary to the  
34 public interest. Such terms, conditions and payments:  
35 (1) Must be fair and nondiscriminatory as between the  
36 eligible customer and the remaining customers of the electric utility;  
37 and  
38 (2) Must include, without limitation ~~[, payment]~~ :  
39 *(I) Payment* by the eligible customer to the electric utility  
40 of the eligible customer's load-share portion of any unrecovered  
41 balance in the deferred accounts of the electric utility ~~[,]~~ ; and  
42 *(II) Payment by the eligible customer of the annual*  
43 *assessment and any other tax, fee or assessment required by*  
44 *section 15 of this act.*



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

4 (a) The application shall be deemed to be approved by the  
5 Commission; and

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

10 **Sec. 17.** This act becomes effective on July 1, 2003.

