
SENATE BILL NO. 125—COMMITTEE ON COMMERCE AND LABOR
(ON BEHALF OF THE PUBLIC UTILITIES COMMISSION)

FEBRUARY 13, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to certain final orders and permits for public utilities. (BDR 58-488)

FISCAL NOTE: Effect on Local Government: No.
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 public utilities; revising provisions governing notice for certain parties to a permit proceeding involving a utility facility; increasing the time allowed for entry of a final order for an application relating to the sale of energy, capacity or ancillary services by a provider of new electric resources; 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.** NRS 704.870 is hereby amended to read as follows:
2 704.870 1. Except as otherwise provided in subsection 2, a
3 person who wishes to obtain a permit for a utility facility must file
4 with the Commission an application, in such form as the
5 Commission prescribes, containing:
6 (a) A description of the location and of the utility facility to be
7 built thereon;
8 (b) A summary of any studies which have been made of the
9 environmental impact of the facility; and
10 (c) A description of any reasonable alternate location or
11 locations for the proposed facility, a description of the comparative
12 merits or detriments of each location submitted, and a statement of



1 the reasons why the primary proposed location is best suited for the
2 facility.

3 A copy or copies of the studies referred to in paragraph (b) must be
4 filed with the Commission and be available for public inspection.

5 2. If a person wishes to obtain a permit for a utility facility and
6 a federal agency is required to conduct an environmental analysis of
7 the proposed utility facility, the person must:

8 (a) Not later than the date on which the person files with the
9 appropriate federal agency an application for approval for the
10 construction of the utility facility, file with the Commission and
11 each other permitting entity an application, in such a form as the
12 Commission or other permitting entity prescribes, containing:

13 (1) A general description of the proposed utility facility; and
14 (2) A summary of any studies which the applicant anticipates
15 will be made of the environmental impact of the facility; and

16 (b) Not later than 30 days after the issuance by the appropriate
17 federal agency of a final environmental assessment or
18 environmental impact statement relating to the construction of the
19 utility facility:

20 (1) File with the Commission an amended application that
21 complies with the provisions of subsection 1; and

22 (2) File with each other permitting entity an amended
23 application for a permit, license or other approval for the
24 construction of the utility facility.

25 3. A copy of each application and amended application filed
26 with the Commission must be filed with the Administrator of the
27 Division of Environmental Protection of the State Department of
28 Conservation and Natural Resources.

29 4. Each application and amended application filed with the
30 Commission must be accompanied by:

31 (a) Proof of service of a copy of the application or amended
32 application on the clerk of each local government in the area in
33 which any portion of the facility is to be located, both as primarily
34 and as alternatively proposed; and

35 (b) Proof that public notice thereof was given to persons
36 residing in the municipalities entitled to receive notice pursuant to
37 paragraph (a) by the publication of a summary of the application or
38 amended application in newspapers published and distributed in the
39 area in which the utility facility is proposed to be located.

40 *5. Not later than 5 business days after the Commission*
41 *receives an application or amended application pursuant to this*
42 *section, the Commission shall issue a notice concerning the*
43 *application or amended application. Any person who wishes to*
44 *become a party to a permit proceeding pursuant to NRS 704.885*
45 *must file with the Commission the appropriate document required*



1 *by NRS 704.885 within the time frame set forth in the notice*
2 *issued by the Commission pursuant to this subsection.*

3 **Sec. 2.** NRS 704.885 is hereby amended to read as follows:
4 704.885 1. The parties to a permit proceeding include:

5 (a) The applicant.

6 (b) The Division of Environmental Protection of the State
7 Department of Conservation and Natural Resources.

8 (c) Each local government entitled to receive service of a copy
9 of the application pursuant to subsection 4 of NRS 704.870, if it has
10 filed with the Commission a notice of intervention as a party, within
11 ~~[30 days after the date it was served with a copy of the application.]~~
12 *the time frame established by the Commission pursuant to*
13 *subsection 5 of NRS 704.870.*

14 (d) Any natural person residing in a local government entitled to
15 receive service of a copy of the application pursuant to subsection 4
16 of NRS 704.870, if such a person has petitioned the Commission for
17 leave to intervene as a party within ~~[30 days after the date of the~~
18 ~~published notice]~~ *the time frame established by the Commission*
19 *pursuant to subsection 5 of NRS 704.870* and if the petition has
20 been granted by the Commission for good cause shown.

21 (e) Any domestic nonprofit corporation or association, formed
22 in whole or in part to promote conservation of natural beauty, to
23 protect the environment, personal health or other biological values,
24 to preserve historical sites, to promote consumer interests, to
25 represent commercial and industrial groups, or to promote the
26 orderly development of the areas in which the facility is to be
27 located, if it has filed with the Commission a notice of intent to be
28 a party within ~~[30 days after the date of the published notice.]~~ *the time*
29 *frame established by the Commission pursuant to subsection 5 of*
30 *NRS 704.870.*

31 2. Any person may make a limited appearance in the
32 proceeding by filing a statement of position within ~~[30 days after the~~
33 ~~date of the published notice.]~~ *the time frame established by the*
34 *Commission pursuant to subsection 5 of NRS 704.870.* A
35 statement filed by a person making a limited appearance becomes
36 part of the record. No person making a limited appearance has the
37 right to present oral testimony or cross-examine witnesses.

38 3. The Commission may, for good cause shown, grant a
39 petition for leave to intervene as a party to participate in subsequent
40 phases of the proceeding, filed by a municipality, government
41 agency, person or organization who is identified in paragraph (c),
42 (d) or (e) of subsection 1, but who failed to file in a timely manner a
43 notice of intervention, a petition for leave to intervene or a notice of
44 intent to be a party, as the case may be.



1 **Sec. 3.** NRS 704B.310 is hereby amended to read as follows:

2 704B.310 1. An eligible customer that is purchasing electric
3 service from an electric utility shall not purchase energy, capacity or
4 ancillary services from a provider of new electric resources and an
5 eligible customer that is purchasing energy, capacity or ancillary
6 services from a provider of new electric resources shall not purchase
7 energy, capacity or ancillary services from another provider unless:

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

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

15 The date on which the eligible customer intends to begin purchasing
16 energy, capacity or ancillary services from the provider must not be
17 sooner than the date on which the provider is authorized by NRS
18 704B.300 to begin selling energy, capacity or ancillary services to
19 the eligible customer.

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

22 (a) Information demonstrating that the person filing the
23 application is an eligible customer;

24 (b) Information demonstrating that the proposed provider will
25 provide energy, capacity or ancillary services from a new electric
26 resource;

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

34 (d) Any other information required pursuant to the regulations
35 adopted by the Commission.

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

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

41 (b) Any other terms or conditions of the proposed transaction
42 that the Commission determines are commercially sensitive.

43 4. The Commission shall provide public notice of the
44 application of the eligible customer and an opportunity for a hearing



1 on the application in a manner that is consistent with the provisions
2 of NRS 703.320 and the regulations adopted by the Commission.

3 5. The Commission shall approve the application of the eligible
4 customer unless the Commission finds that the proposed transaction:

5 (a) Will be contrary to the public interest; or

6 (b) Does not comply with the provisions of NRS 704B.320, if
7 those provisions apply to the proposed transaction.

8 6. In determining whether the proposed transaction will be
9 contrary to the public interest, the Commission shall consider,
10 without limitation:

11 (a) Whether the electric utility that has been providing electric
12 service to the eligible customer will be burdened by increased costs
13 as a result of the proposed transaction or whether any remaining
14 customer of the electric utility will pay increased costs for electric
15 service as a result of the proposed transaction;

16 (b) Whether the proposed transaction will impair system
17 reliability or the ability of the electric utility to provide electric
18 service to its remaining customers; and

19 (c) Whether the proposed transaction will add energy, capacity
20 or ancillary services to the supply in this state.

21 7. If the Commission approves the application of the eligible
22 customer:

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

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

31 (1) Must be fair and nondiscriminatory as between the
32 eligible customer and the remaining customers of the electric utility;
33 and

34 (2) Must include, without limitation, payment by the eligible
35 customer to the electric utility of the eligible customer's load-share
36 portion of any unrecovered balance in the deferred accounts of the
37 electric utility.

38 8. If the Commission does not enter a final order on the
39 application of the eligible customer within ~~90~~ 150 days after the
40 date on which the application was filed with the Commission:

41 (a) The application shall be deemed to be approved by the
42 Commission; and

43 (b) The eligible customer shall not begin purchasing energy,
44 capacity or ancillary services from the provider pursuant to the



- 1 proposed transaction sooner than 180 days after the date on which
- 2 the application was filed.

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