

SENATE BILL NO. 238—SENATOR WASHINGTON

MARCH 21, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing regulation of certain public utilities. (BDR 58-1156)

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; authorizing a public utility which purchases natural gas for resale to file a general rate application based on a projected 12-month period of operations; authorizing the Public Utilities Commission of Nevada to permit such a public utility to make periodic adjustments in its rates based on changes in the costs of natural gas without complying with certain procedural requirements; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law contains certain requirements and procedures that a public utility
2 must follow when filing a general rate application. Specifically, a public utility
3 must submit a statement showing its actual revenues, expenses, investments and
4 costs of capital for the most recent 12-month period of operations from which such
5 data is available. Based on the actual data obtained from the prior 12-month period
6 of operations and any supplemental data submitted by the utility, the Public
7 Utilities Commission of Nevada establishes new rates for the utility.
8 (NRS 704.110)

9 This bill allows a natural gas utility to submit with its general rate application a
10 statement showing estimated revenues, expenses, investments and costs of capital
11 for a projected 12-month period of operations when the new rates proposed by the
12 utility would be in effect. This bill requires the Commission to use the estimated
13 data for the projected 12-month period of operations to establish new rates for the
14 utility instead of using actual data from a prior 12-month period of operations.

15 Existing law allows a natural gas utility to file an application with the
16 Commission once every 30 days to recover from ratepayers any increased costs the
17 utility pays for its supply of natural gas. (NRS 704.110) Upon receipt of such an
18 application, the Commission generally must provide notice of the application and



19 hold a hearing concerning the proposed rate increase. (NRS 703.320) In addition,
20 the Commission generally must conduct a consumer session to solicit comments
21 from the public concerning the proposed rate increase. (NRS 704.069)

22 This bill allows a natural gas utility to request approval from the Commission
23 to adjust its rates on a periodic basis between annual rate adjustment applications
24 based on changes in the costs of natural gas. If the request is approved, the utility's
25 periodic rate adjustments are not subject to the requirements for notice, hearings or
26 consumer sessions. Instead, the utility must file an annual rate adjustment
27 application with the Commission to review the appropriateness of the utility's
28 periodic rate adjustments. The Commission must adjust the utility's rates if the
29 Commission determines that any periodic rate adjustment made by the utility was
30 not reasonable or was the result of any imprudent practice or transaction.

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

1 **Section 1.** NRS 703.320 is hereby amended to read as follows:
2 703.320 *Except as otherwise provided in subsection 8 of*
3 *NRS 704.110:*

4 1. In any matter pending before the Commission, if a hearing is
5 required by a specific statute or is otherwise required by the
6 Commission, the Commission shall give notice of the pendency of
7 the matter to all persons entitled to notice of the hearing. The
8 Commission shall by regulation specify:

- 9 (a) The manner of giving notice in each type of proceeding; and
10 (b) The persons entitled to notice in each type of proceeding.

11 2. The Commission shall not dispense with a hearing:

12 (a) In any matter pending before the Commission pursuant to
13 NRS 704.7561 to 704.7595, inclusive; or

14 (b) Except as otherwise provided in subsection 4 of NRS
15 704.100, in any matter pending before the Commission pursuant to
16 NRS 704.061 to 704.110, inclusive, in which an electric utility has
17 filed a general rate application or an application to clear its deferred
18 accounts.

19 3. In any other matter pending before the Commission, the
20 Commission may dispense with a hearing and act upon the matter
21 pending unless, within 10 days after the date of the notice of
22 pendency, a person entitled to notice of the hearing files with the
23 Commission a request that the hearing be held. If such a request for
24 a hearing is filed, the Commission shall give at least 10 days' notice
25 of the hearing.

26 4. As used in this section, "electric utility" has the meaning
27 ascribed to it in NRS 704.187.

28 **Sec. 2.** NRS 704.069 is hereby amended to read as follows:

29 704.069 1. ~~[The]~~ *Except as otherwise provided in subsection*
30 *8 of NRS 704.110, the* Commission shall conduct a consumer



1 session to solicit comments from the public in any matter pending
2 before the Commission pursuant to NRS 704.061 to 704.110,
3 inclusive, in which:

4 (a) A public utility has filed a general rate application, an
5 application to recover the increased cost of purchased fuel,
6 purchased power, or natural gas purchased for resale or an
7 application to clear its deferred accounts; and

8 (b) The changes proposed in the application will result in an
9 increase in annual gross operating revenue, as certified by the
10 applicant, in an amount that will exceed \$50,000 or 10 percent of
11 the applicant's annual gross operating revenue, whichever is less.

12 2. In addition to the case-specific consumer sessions required
13 by subsection 1, the Commission shall, during each calendar year,
14 conduct at least one general consumer session in the county with the
15 largest population in this State and at least one general consumer
16 session in the county with the second largest population in this
17 State. At each general consumer session, the Commission shall
18 solicit comments from the public on issues concerning public
19 utilities. Not later than 60 days after each general consumer session,
20 the Commission shall submit the record from the general consumer
21 session to the Legislative Commission.

22 **Sec. 3.** NRS 704.100 is hereby amended to read as follows:

23 704.100 Except as otherwise provided in NRS 704.075 and
24 704.68904 to 704.68984, inclusive, or as may otherwise be provided
25 by the Commission pursuant to NRS 704.095 or 704.097 or
26 pursuant to the regulations adopted by the Commission in
27 accordance with subsection 4 of NRS 704.040:

28 1. A public utility shall not make changes in any schedule,
29 unless the public utility:

30 (a) Files with the Commission an application to make the
31 proposed changes and the Commission approves the proposed
32 changes pursuant to NRS 704.110; ~~or~~

33 (b) Files the proposed changes with the Commission using a
34 letter of advice in accordance with the provisions of subsection 4 ~~or~~
35 ; or

36 (c) *Is authorized to adjust its rates on a periodic basis between*
37 *annual rate adjustment applications pursuant to subsection 8 of*
38 *NRS 704.110 based on changes in the public utility's recorded*
39 *costs of natural gas purchased for resale.*

40 2. A public utility shall post copies of all proposed schedules
41 and all new or amended schedules in the same offices and in
42 substantially the same form, manner and places as required by NRS
43 704.070 for the posting of copies of schedules that are currently in
44 force.



1 3. A public utility may not set forth as justification for a rate
2 increase any items of expense or rate base that previously have been
3 considered and disallowed by the Commission, unless those items
4 are clearly identified in the application and new facts or
5 considerations of policy for each item are advanced in the
6 application to justify a reversal of the prior decision of the
7 Commission.

8 4. Except as otherwise provided in subsection 5, if the
9 proposed change in any schedule does not change any rate or will
10 result in an increase in annual gross operating revenue, as certified
11 by the public utility, in an amount that does not exceed \$2,500:

12 (a) The public utility may file the proposed change with the
13 Commission using a letter of advice in lieu of filing an application;
14 and

15 (b) The Commission shall determine whether it should dispense
16 with a hearing regarding the proposed change.

17 5. If the applicant is a public utility furnishing telephone
18 service and the proposed change in any schedule will result in an
19 increase in annual gross operating revenue, as certified by the
20 applicant, in an amount that does not exceed \$50,000 or 10 percent
21 of the applicant's annual gross operating revenue, whichever is less,
22 the Commission shall determine whether it should dispense with a
23 hearing regarding the proposed change.

24 6. In making the determination pursuant to subsection 4 or 5,
25 the Commission shall first consider all timely written protests, any
26 presentation that the Regulatory Operations Staff of the Commission
27 may desire to present, the application of the public utility and any
28 other matters deemed relevant by the Commission.

29 **Sec. 4.** NRS 704.110 is hereby amended to read as follows:

30 704.110 Except as otherwise provided in NRS 704.075 and
31 704.68904 to 704.68984, inclusive, or as may otherwise be provided
32 by the Commission pursuant to NRS 704.095 or 704.097 or
33 pursuant to the regulations adopted by the Commission in
34 accordance with subsection 4 of NRS 704.040:

35 1. If a public utility files with the Commission an application to
36 make changes in any schedule, including, without limitation,
37 changes that will result in a discontinuance, modification or
38 restriction of service, the Commission shall investigate the propriety
39 of the proposed changes to determine whether to approve or
40 disapprove the proposed changes. If an electric utility files such an
41 application and the application is a general rate application or an
42 application to clear its deferred accounts, the Consumer's Advocate
43 shall be deemed a party of record.

44 2. Except as otherwise provided in subsections 3 and ~~11~~ 13,
45 if a public utility files with the Commission an application to make



1 changes in any schedule, not later than 180 days after the date on
2 which the application is filed, the Commission shall issue a written
3 order approving or disapproving, in whole or in part, the proposed
4 changes.

5 3. ~~¶~~ *Except as otherwise provided in this subsection, if*
6 *public utility files with the Commission a general rate application,*
7 *the public utility shall submit with its application a statement*
8 *showing the recorded results of revenues, expenses, investments and*
9 *costs of capital for its most recent 12 months for which data were*
10 *available when the application was prepared. In determining*
11 *whether to approve or disapprove any increased rates, the*
12 *Commission shall consider evidence in support of the increased*
13 *rates based upon actual recorded results of operations for the same*
14 *12 months, adjusted for increased revenues, any increased*
15 *investment in facilities, increased expenses for depreciation, certain*
16 *other operating expenses as approved by the Commission and*
17 *changes in the costs of securities which are known and are*
18 *measurable with reasonable accuracy at the time of filing and which*
19 *will become effective within 6 months after the last month of those*
20 *12 months, but the public utility shall not place into effect any*
21 *increased rates until the changes have been experienced and*
22 *certified by the public utility to the Commission and the*
23 *Commission has approved the increased rates. The Commission*
24 *shall also consider evidence supporting expenses for depreciation,*
25 *calculated on an annual basis, applicable to major components of the*
26 *public utility's plant placed into service during the recorded test*
27 *period or the period for certification as set forth in the application.*
28 *Adjustments to revenues, operating expenses and costs of securities*
29 *must be calculated on an annual basis. Within 90 days after the date*
30 *on which the certification required by this subsection is filed with*
31 *the Commission, or within 180 days after the date on which the*
32 *general rate application is filed with the Commission, whichever*
33 *time is longer, the Commission shall make such order in reference*
34 *to the increased rates as is required by this chapter. An electric*
35 *utility shall file a general rate application pursuant to this subsection*
36 *at least once every 24 months. **The provisions of this subsection do***
37 *not apply to a public utility which purchases natural gas for resale*
38 *if the public utility submits with its general rate application a*
39 *statement for a projected 12-month period of operations pursuant*
40 *to subsection 4.*

41 4. *In lieu of submitting a statement based upon actual*
42 *recorded results of operations for a prior 12-month period, a*
43 *public utility which purchases natural gas for resale may submit*
44 *with its general rate application a statement showing estimated*
45 *revenues, expenses, investments and costs of capital for a*



1 *projected 12-month period of operations when the rates proposed*
2 *by the public utility in its general rate application would be in*
3 *effect. If a public utility submits such a statement:*

4 *(a) The Commission shall establish just and reasonable rates*
5 *for the public utility based on the statement submitted by the*
6 *public utility for the projected 12-month period of operations; and*

7 *(b) After the rates have been established by the Commission,*
8 *the public utility is not required to file any additional certification*
9 *with the Commission to place the rates into effect.*

10 5. If a public utility files with the Commission an application to
11 make changes in any schedule and the Commission does not issue a
12 final written order regarding the proposed changes within the time
13 required by this section, the proposed changes shall be deemed to be
14 approved by the Commission.

15 ~~[5.]~~ 6. If a public utility files with the Commission a general
16 rate application, the public utility shall not file with the Commission
17 another general rate application until all pending general rate
18 applications filed by that public utility have been decided by the
19 Commission unless, after application and hearing, the Commission
20 determines that a substantial financial emergency would exist if the
21 public utility is not permitted to file another general rate application
22 sooner. The provisions of this subsection do not prohibit the public
23 utility from filing with the Commission, while a general rate
24 application is pending, an application to recover the increased cost
25 of purchased fuel, purchased power, or natural gas purchased for
26 resale pursuant to subsection ~~[6.]~~ 7 or an application to clear its
27 deferred accounts pursuant to subsection ~~[7.]~~ 9, if the public utility
28 is otherwise authorized by those provisions to file such an
29 application.

30 ~~[6.]~~ 7. A public utility may file an application to recover the
31 increased cost of purchased fuel, purchased power, or natural gas
32 purchased for resale once every 30 days. The provisions of this
33 subsection do not apply to ~~fan~~:

34 *(a) An electric utility using deferred accounting pursuant to*
35 *NRS 704.187 ~~f~~*
36 *~~—7.] ; or~~*

37 *(b) A public utility which purchases natural gas for resale if*
38 *the public utility is authorized to adjust its rates on a periodic basis*
39 *between annual rate adjustment applications pursuant to*
40 *subsection 8.*

41 8. *A public utility which purchases natural gas for resale may*
42 *request approval from the Commission to adjust its rates on a*
43 *periodic basis between annual rate adjustment applications based*
44 *on changes in the public utility's recorded costs of natural gas*
45 *purchased for resale. If the Commission approves such a request:*



1 (a) *The periodic rate adjustments made by the public utility*
2 *between annual rate adjustment applications are not subject to the*
3 *requirements for notice and a hearing pursuant to NRS 703.320*
4 *or the requirements for a consumer session pursuant to subsection*
5 *1 of NRS 704.069.*

6 (b) *The public utility shall file an annual rate adjustment*
7 *application with the Commission to review the appropriateness of*
8 *the periodic rate adjustments made by the public utility. The*
9 *Commission shall determine whether the periodic rate adjustments*
10 *were reasonable and prudent based on the changes in the public*
11 *utility's recorded costs of natural gas purchased for resale. The*
12 *Commission shall order the public utility to adjust its rates if the*
13 *Commission determines that any periodic rate adjustment was not*
14 *reasonable or was the result of any practice or transaction that*
15 *was undertaken, managed or performed imprudently by the public*
16 *utility.*

17 9. Except as otherwise provided in subsection ~~8~~ 10 and
18 subsection 4 of NRS 704.100, if an electric utility using deferred
19 accounting pursuant to NRS 704.187 files an application to clear its
20 deferred accounts and to change one or more of its rates based upon
21 changes in the costs for purchased fuel or purchased power, the
22 Commission, after a public hearing and by an appropriate order:

23 (a) Shall allow the electric utility to clear its deferred accounts
24 by refunding any credit balance or recovering any debit balance
25 over a period not to exceed 3 years, as determined by the
26 Commission.

27 (b) Shall not allow the electric utility to recover any debit
28 balance, or portion thereof, in an amount that would result in a rate
29 of return during the period of recovery that exceeds the rate of
30 return authorized by the Commission in the most recently completed
31 rate proceeding for the electric utility.

32 ~~8~~ 10. Before allowing an electric utility to clear its deferred
33 accounts pursuant to subsection ~~7~~ 9, the Commission shall
34 determine whether the costs for purchased fuel and purchased power
35 that the electric utility recorded in its deferred accounts are
36 recoverable and whether the revenues that the electric utility
37 collected from customers in this State for purchased fuel and
38 purchased power are properly recorded and credited in its deferred
39 accounts. The Commission shall not allow the electric utility to
40 recover any costs for purchased fuel and purchased power that were
41 the result of any practice or transaction that was undertaken,
42 managed or performed imprudently by the electric utility.

43 ~~9~~ 11. If an electric utility files an application to clear its
44 deferred accounts pursuant to subsection ~~7~~ 9 while a general rate
45 application is pending, the electric utility shall:



1 (a) Submit with its application to clear its deferred accounts
2 information relating to the cost of service and rate design; and

3 (b) Supplement its general rate application with the same
4 information, if such information was not submitted with the general
5 rate application.

6 ~~10.1~~ **12.** A utility facility identified in a 3-year plan submitted
7 pursuant to NRS 704.741 and accepted by the Commission for
8 acquisition or construction pursuant to NRS 704.751 and the
9 regulations adopted pursuant thereto shall be deemed to be a prudent
10 investment. The utility may recover all just and reasonable costs of
11 planning and constructing such a facility.

12 ~~11.1~~ **13.** A PAR carrier may, in accordance with this section
13 and NRS 704.100, file with the Commission a request to approve or
14 change any schedule to provide volume or duration discounts to
15 rates for telecommunication service for an offering made to all or
16 any class of business customers. The Commission may conduct a
17 hearing relating to the request, which must occur within 45 days
18 after the date the request is filed with the Commission. The request
19 and schedule shall be deemed approved if the request and schedule
20 are not disapproved by the Commission within 60 days after the date
21 the Commission receives the request.

22 ~~12.1~~ **14.** As used in this section:

23 (a) "Electric utility" has the meaning ascribed to it in
24 NRS 704.187.

25 (b) "PAR carrier" has the meaning ascribed to it in
26 NRS 704.68942.

27 **Sec. 5.** NRS 704.185 is hereby amended to read as follows:

28 704.185 1. ~~1A~~ ***Except as otherwise provided in subsection 8***
29 ***of NRS 704.110, a*** public utility which purchases natural gas for
30 resale may record upon its books and records in deferred accounts
31 all cost increases or decreases in the natural gas purchased for
32 resale. Any public utility which uses deferred accounting to reflect
33 changes in costs of natural gas purchased for resale shall include in
34 its annual report to the Commission a statement showing the
35 allocated rate of return for each of its operating departments in
36 Nevada which uses deferred accounting.

37 2. If the rate of return for any department using deferred
38 accounting pursuant to subsection 1 is greater than the rate of return
39 allowed by the Commission in the last rate proceeding, the
40 Commission shall order the utility which recovered any costs of
41 natural gas purchased for resale through rates during the reported
42 period to transfer to the next energy adjustment period that portion
43 of such recovered amounts which exceeds the authorized rate of
44 return.



1 3. A public utility which purchases natural gas for resale may
2 request approval from the Commission to record upon its books and
3 records in deferred accounts any other cost or revenue which the
4 Commission deems appropriate for deferred accounting and which
5 is not otherwise subject to the provisions of subsections 1 and 2. If
6 the Commission approves such a request, the Commission shall
7 determine the appropriate requirements for reporting and recovery
8 that the public utility must follow with regard to each such deferred
9 account.

10 **Sec. 6.** NRS 704.187 is hereby amended to read as follows:

11 704.187 1. Except as otherwise provided in section 36 of
12 chapter 16, Statutes of Nevada 2001, beginning on March 1, 2001,
13 an electric utility that purchases fuel or power shall use deferred
14 accounting by recording upon its books and records in deferred
15 accounts all increases and decreases in costs for purchased fuel and
16 purchased power that are prudently incurred by the electric utility.

17 2. An electric utility using deferred accounting shall include in
18 its annual report to the Commission a statement showing, for the
19 period of recovery, the allocated rate of return for each of its
20 operating departments in this State using deferred accounting. If,
21 during the period of recovery, the rate of return for any operating
22 department using deferred accounting is greater than the rate of
23 return authorized by the Commission in the most recently completed
24 rate proceeding for the electric utility, the Commission shall order
25 the electric utility that recovered costs for purchased fuel or
26 purchased power through its rates during the reported period to
27 transfer to the next energy adjustment period that portion of the
28 amount recovered by the electric utility that exceeds the authorized
29 rate of return.

30 3. Except as otherwise provided in subsection 4, an electric
31 utility using deferred accounting shall file an application to clear its
32 deferred accounts after the end of each 12-month period of deferred
33 accounting.

34 4. An electric utility using deferred accounting may file an
35 application to clear its deferred accounts after the end of a 6-month
36 period of deferred accounting if the net increase or decrease in
37 revenues necessary to clear its deferred accounts for the 6-month
38 period is more than 5 percent of the total revenues generated by the
39 electric utility during that period from its rates for purchased fuel
40 and purchased power most recently authorized by the Commission.

41 5. The Commission shall adopt regulations prescribing the
42 period within which an electric utility must file an application to
43 clear its deferred accounts after the end of a period of deferred
44 accounting.



1 6. As used in this section:

2 (a) “Application to clear its deferred accounts” means an
3 application filed by an electric utility pursuant to this section and
4 subsection ~~7~~ 9 of NRS 704.110.

5 (b) “Costs for purchased fuel and purchased power” means all
6 costs which are prudently incurred by an electric utility and which
7 are required to purchase fuel, to purchase capacity and to purchase
8 energy. The term does not include any costs that the Commission
9 determines are not recoverable pursuant to subsection ~~8~~ 10 of
10 NRS 704.110.

11 (c) “Electric utility” means any public utility or successor in
12 interest that:

13 (1) Is in the business of providing electric service to
14 customers;

15 (2) Holds a certificate of public convenience and necessity
16 issued or transferred pursuant to this chapter; and

17 (3) In the most recently completed calendar year or in any
18 other calendar year within the 7 calendar years immediately
19 preceding the most recently completed calendar year, had a gross
20 operating revenue of \$250,000,000 or more in this State.

21 ↪ The term does not include a cooperative association, nonprofit
22 corporation, nonprofit association or provider of electric service
23 which is declared to be a public utility pursuant to NRS 704.673 and
24 which provides service only to its members.



