

CHAPTER.....

AN ACT relating to public utilities; authorizing a public utility which purchases natural gas for resale to submit information with a general rate application regarding the effect that certain expected changes in circumstances will have on its operations; authorizing the Public Utilities Commission of Nevada to permit a public utility which purchases natural gas for resale to make quarterly adjustments in its rates based on changes in the costs of natural gas without complying with certain procedural requirements; requiring the Commission to conduct a study and prepare a report for the Legislature regarding the possible use of alternative ratemaking methodologies in general rate cases; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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

This bill allows a natural gas utility to submit with its general rate application a statement showing the effects of certain changes which are expected to occur within 210 days after the date on which its general rate application is filed with the Commission. If the public utility proves that the expected changes are reasonably known and are measurable with reasonable accuracy, the Commission shall consider the effects of those expected changes in establishing just and reasonable rates for the public utility.

Existing law allows a natural gas utility to file an application with the Commission once every 30 days to recover from ratepayers any increased costs the utility pays for its supply of natural gas. (NRS 704.110) Upon receipt of such an application, the Commission generally must provide notice of the application and hold a hearing concerning the proposed rate increase. (NRS 703.320) In addition, the Commission generally must conduct a consumer session to solicit comments from the public concerning the proposed rate increase. (NRS 704.069)

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

Finally, this bill requires the Commission to open an investigatory docket to study the various methodologies that may be used to establish just and reasonable rates in cases involving general rate applications filed by public utilities. The Commission must consider the possible use of different ratemaking methodologies,

such as projected test year methodologies, as an alternative to the historical test year methodologies currently used in Nevada. The Commission must submit a report of its findings and recommendations to the Director of the Legislative Counsel Bureau for transmission to the 2007 Legislature.

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

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

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

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

2. The Commission shall not dispense with a hearing:

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

(b) Except as otherwise provided in subsection ~~4~~ 5 of NRS 704.100, in any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an application to clear its deferred accounts.

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

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

Sec. 2. NRS 704.069 is hereby amended to read as follows:
704.069 1. ~~The~~ *Except as otherwise provided in subsection 8 of NRS 704.110, the* Commission shall conduct a consumer session to solicit comments from the public in any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which:

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

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

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

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

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

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

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

(b) Files the proposed changes with the Commission using a letter of advice in accordance with the provisions of subsection ~~[4.]~~ 5.

2. A public utility shall *adjust its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8 of NRS 704.110 based on changes in the public utility's recorded costs of natural gas purchased for resale.*

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

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

~~[4.]~~ 5. Except as otherwise provided in subsection ~~[5.]~~ 6, if the proposed change in any schedule does not change any rate or will

result in an increase in annual gross operating revenue, as certified by the public utility, in an amount that does not exceed \$2,500:

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

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

~~5.1~~ 6. If the applicant is a public utility furnishing telephone service and the proposed change in any schedule will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that does not exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less, the Commission shall determine whether it should dispense with a hearing regarding the proposed change.

~~6.1~~ 7. In making the determination pursuant to subsection ~~4 or 5.1~~ 5 or 6, the Commission shall first consider all timely written protests, any presentation that the Regulatory Operations Staff of the Commission may desire to present, the application of the public utility and any other matters deemed relevant by the Commission.

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

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

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

2. Except as otherwise provided in subsections 3 and ~~11.1~~ 13, if a public utility files with the Commission an application to make changes in any schedule, not later than 180 days after the date on which the application is filed, the Commission shall issue a written order approving or disapproving, in whole or in part, the proposed changes.

3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. ~~11.1~~ *Except as otherwise provided in subsection 4, in* determining

whether to approve or disapprove any increased rates, the Commission shall consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the date on which the certification required by this subsection is filed with the Commission, or within 180 days after the date on which the general rate application is filed with the Commission, whichever time is longer, the Commission shall make such order in reference to the increased rates as is required by this chapter. An electric utility shall file a general rate application pursuant to this subsection at least once every 24 months.

4. In addition to submitting the statement required pursuant to subsection 3, a public utility which purchases natural gas for resale may submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances. If such a statement is filed, it must include all increases and decreases in revenue and expenses which may occur within 210 days after the date on which its general rate application is filed with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy. If a public utility submits such a statement, the public utility has the burden of proving that the expected changes in circumstances set forth in the statement are reasonably known and are measurable with reasonable accuracy. If the Commission determines that the public utility has met its burden of proof:

(a) The Commission shall consider the statement submitted pursuant to this subsection and evidence relevant to the statement in addition to the statement required pursuant to subsection 3 as evidence in establishing just and reasonable rates for the public utility; and

(b) The public utility is not required to file with the Commission the certification that would otherwise be required pursuant to subsection 3.

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

~~5.1~~ 6. If a public utility files with the Commission a general rate application, the public utility shall not file with the Commission another general rate application until all pending general rate applications filed by that public utility have been decided by the Commission unless, after application and hearing, the Commission determines that a substantial financial emergency would exist if the public utility is not permitted to file another general rate application sooner. The provisions of this subsection do not prohibit the public utility from filing with the Commission, while a general rate application is pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection ~~6.1~~ 7 or an application to clear its deferred accounts pursuant to subsection ~~7.1~~ 9, if the public utility is otherwise authorized by those provisions to file such an application.

~~6.1~~ 7. A public utility may file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale once every 30 days. The provisions of this subsection do not apply to ~~6.1.1~~:

(a) An electric utility using deferred accounting pursuant to NRS 704.187 ~~6.1.1~~:

~~7.1~~; or

(b) A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8.

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

(a) The public utility shall file written notice with the Commission before the public utility makes a quarterly rate adjustment between annual rate adjustment applications. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the public utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and

(IV) Any other information required by the Commission.

(c) The public utility shall file an annual rate adjustment application with the Commission. The annual rate adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual rate adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of natural gas included in each quarterly rate adjustment and the annual rate adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the public utility, and the Commission shall order the public utility to adjust its rates if the Commission determines that any recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application were not reasonable or prudent.

9. Except as otherwise provided in subsection ~~[8]~~ 10 and subsection ~~[4]~~ 5 of NRS 704.100, if an electric utility using deferred

accounting pursuant to NRS 704.187 files an application to clear its deferred accounts and to change one or more of its rates based upon changes in the costs for purchased fuel or purchased power, the Commission, after a public hearing and by an appropriate order:

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

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

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

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

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

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

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

~~{11-}~~ **13.** A PAR carrier may, in accordance with this section and NRS 704.100, file with the Commission a request to approve or change any schedule to provide volume or duration discounts to rates for telecommunication service for an offering made to all or any class of business customers. The Commission may conduct a hearing relating to the request, which must occur within 45 days after the date the request is filed with the Commission. The request and schedule shall be deemed approved if the request and schedule

are not disapproved by the Commission within 60 days after the date the Commission receives the request.

~~12.~~ **14.** As used in this section:

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

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

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

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

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

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

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

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

2. An electric utility using deferred accounting shall include in its annual report to the Commission a statement showing, for the period of recovery, the allocated rate of return for each of its operating departments in this State using deferred accounting. If, during the period of recovery, the rate of return for any operating

department using deferred accounting is greater than the rate of return authorized by the Commission in the most recently completed rate proceeding for the electric utility, the Commission shall order the electric utility that recovered costs for purchased fuel or purchased power through its rates during the reported period to transfer to the next energy adjustment period that portion of the amount recovered by the electric utility that exceeds the authorized rate of return.

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

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

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

6. As used in this section:

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

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

(c) "Electric utility" means any public utility or successor in interest that:

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

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

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

➤ The term does not include a cooperative association, nonprofit corporation, nonprofit association or provider of electric service

which is declared to be a public utility pursuant to NRS 704.673 and which provides service only to its members.

Sec. 7. 1. As soon as practicable after the effective date of this act, the Public Utilities Commission of Nevada shall open an investigatory docket to study, examine and review the various processes, theories and methodologies that may be used to establish just and reasonable rates in cases involving general rate applications filed by public utilities.

2. The investigatory docket must include, without limitation:

(a) Consideration of the use of different ratemaking methodologies as an alternative to the historical test year methodologies currently used in Nevada, such as:

(1) Projected test year methodologies;

(2) Hybrid methodologies that use a combination of projected data and historical data; and

(3) Any other ratemaking methodologies that are reasonable alternatives to historical test year methodologies.

(b) With regard to each alternative ratemaking methodology, consideration of:

(1) The rate impact on customers and whether the methodology would result in rates that more accurately reflect the costs of providing service to those customers;

(2) The cost effectiveness of using the methodology;

(3) The fiscal impact on state and local agencies;

(4) The procedures and mechanisms necessary to implement the methodology; and

(5) Any other related matters that the Commission deems appropriate.

3. The following parties may participate in the investigatory docket:

(a) Each public utility operating in this State;

(b) The Regulatory Operations Staff of the Commission;

(c) The Consumer's Advocate and the Bureau of Consumer Protection in the Office of the Attorney General; and

(d) Any other interested parties.

4. On or before October 1, 2006, the Commission shall submit a written report of its findings and recommendations from the investigatory docket to the Director of the Legislative Counsel Bureau for transmittal to the 74th Session of the Nevada Legislature.

5. If the Commission's report contains any recommendations for modification or replacement of the historical test year methodologies currently used in Nevada with alternative ratemaking methodologies, the report must include, without limitation, recommendations regarding:

(a) The legislation that would be necessary to authorize the alternative ratemaking methodologies; and

(b) The procedures and mechanisms that would be necessary to implement the alternative ratemaking methodologies.

Sec. 8. 1. This section and section 7 of this act become effective upon passage and approval.

2. Sections 1 to 6, inclusive, of this act become effective on October 1, 2005.