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19-06029

Public Utilities Commission of Nevada  
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8 **BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA**

9 Rulemaking to amend, adopt, and/or repeal regulations  
10 in accordance with Senate Bill 547 (2019).

Docket No. 19-06029

11 **REGULATORY OPERATIONS STAFF’S COMMENTS AND DRAFT LANGUAGE**

12 COMES NOW the Regulatory Operations Staff (“Staff”) of the Public Utilities Commission  
13 of Nevada (“Commission”) pursuant to the Procedural Order issued in the present Docket on August  
14 12, 2019, submits the following Comments and the proposed regulation language attached hereto as  
15 Attachment A.

16 The Procedural Order requested Staff draft initial proposed regulations concerning Phase One  
17 issues to implement Sections 5 and 6 of SB 547, and to conform the Commission’s existing  
18 regulations to those sections as necessary. Staff believes Attachment A provides such regulation  
19 language.

20 As part of the initial proposed regulation, Staff was asked to consider detailed regulations  
21 regarding the impact fees set in accordance with Section 5 (6) (e) of SB 547, including, but limited  
22 to: (1) whether impacts fees should be the same for every customer exiting pursuant to a plan on  
23 annual limits or whether components of an exit fee will variable depending on customer-specific  
24 factors; and (2) whether impact fees should be set based on the load profile characteristics of groups  
25 of customers, such as one impact fee set for high-load factor customers and other impact fees for  
26 average or low-load factor customers.

27 As can be seen in Section 2 of Attachment A, Staff is proposing impact fees that would be the  
28 same for every customer exiting pursuant to a plan on annual limits. As there are a multitude of  
different customer characteristics that potential eligible customers could possess, it seemed to Staff  
that formulating a virtually unlimited number of different potential impact fees would be burdensome

1 on the utility in preparation of its Integrated Resource Plan, and could be wasted effort. Staff did  
2 consider a group characteristic, such as load factor, however, before proposing such a limiting  
3 characteristic, Staff would like to hear from the other participants as to the appropriate characteristics  
4 upon which to group potential eligible customers, and the range of similarity required for grouping.

5 Staff was further asked to consider whether eligible customers that qualify for an exemption  
6 pursuant to Section 5 (7) of SB 547: (1) can file an application pursuant to NRS 704B prior to the  
7 adoption of Phase One regulations; (2) are subject to the application timing mandates in Section 17  
8 (1) (a); and (3) to the extent that such eligible customers may apply pursuant to NRS 704B at any  
9 time, whether a regulation should be adopted in Phase One setting forth the applicable costs, fees,  
10 charges, or rates that apply to such exempt customers in accordance with Section 17 (8) or whether  
11 such costs, fees, charges, or rates should be decided on a case-by-case basis.

12 Staff addresses Section 5 (7) of SB 547 in Section 1 of Attachment A. As the limits on  
13 capacity eligible for exit do not apply to such customers, it is possible that they could file to leave,  
14 pursuant to regulations established pursuant to Section 17 of SB 547 at any time after those  
15 regulations are promulgated, whether or not the regulations created pursuant to Sections 5 and 6 of  
16 SB 547 are complete. That being said, however, those customers, while not subject to the majority of  
17 the restrictions and costs discussed in SB 547, are still considered eligible customers, and Section 17  
18 (1) seems clear that all eligible customers are subject to the timing restrictions of Section 17.  
19 Additionally, Staff contends that because Section 17 (8) of SB 547 only requires Section 5 (7)  
20 eligible customers to pay, "...only those costs, fees, charges or rates which apply to **current and**  
21 **ongoing** legislatively mandated public policy programs, as determined by the Commission..."  
22 (emphasis added), and because what costs, fees, charges or rates are current and ongoing is subject to  
23 change over time, that the application of such costs, fees, charges or rates should be decided on a  
24 case-by-case basis.

25 Staff looks forward to discussing Attachment A and the foregoing Comments with the  
26 Commission and other Participants at the November 21, 2019, Workshop set in the present matter.

27 RESPECTFULLY SUBMITTED this 30<sup>th</sup> day of August, 2019.

28 PUBLIC UTILITIES COMMISSION OF NEVADA  
REGULATORY OPERATIONS STAFF

By: \_\_\_\_\_

Samuel S. Crano, Assistant Staff Counsel

# ATTACHMENT A

**DRAFT REGULATION OF**

**THE PUBLIC UTILITIES COMMISSION OF NEVADA**

**Docket No. 19-06029**

**August 30, 2019**

EXPLANATION – Matter in underlined bold italics is new; matter in brackets [~~omitted materials~~] is material to be omitted.

AUTHORITY: Senate Bill 547 of the 80<sup>th</sup> (2019) Nevada Legislature

A REGULATION relating to public utilities

**Chapter 704 of NAC, and more specifically NAC 704.9005 to 704.9525 is hereby amended by adding thereto the provisions set forth in Sections 1-2 below and amending existing provisions as set forth in Sections 3-5 below.**

**Section 1. *Exemption from Commission Authorized Annual Limits of Energy and Capacity Sales***

**1. The annual limits proposed pursuant to NAC 704.925 (2) shall not apply to energy and capacity sales to an eligible customer if the eligible customer:**

**(a) Was not an end-use customer of the electric utility at any time before June 12, 2019; and**

**(b) Can demonstrate through electrical load calculations and electrical single-line diagrams that it will have a peak load of ten megawatts or more in the service territory of an electric utility within two years of initially taking electric service from its provider of new electric resources.**

**→ An eligible customer taking service under this provision shall file with the Commission, proof that they reached 10 megawatts of usage within two years of initially taking electric service from its provider of new electric resources.**

**2. Whether an eligible customer was an end-use customer of the electric utility at any time before June 12, 2019, is based on the load and location of the usage, not the legal identity of the customer.**

**Section 2. *Calculation of Impact Fee***

**1. In determining the impact fee applicable to each megawatt or each megawatt hour of energy and capacity that eligible customers may be authorized to purchase from providers of new electric resources as provided in NAC 704.925 (2) (b) (v), the utility shall:**

**(a) Calculate the impact to the base tariff general rate paid by end-use customers of each the electric utility. To perform such calculation the electric utility shall:**

(i) Assume all of the accounts or services associated with the eligible capacity and energy will remain distribution and transmission customers after its departure;

(ii) Use the utility's current rates as approved by the Commission;

(iii) Use the utility's currently-approved Federal Energy Regulatory Commission ("FERC") transmission rates;

(iv) Hold the FERC, BTGR, and Distribution-Only Service ("DOS") rates constant for the length of the ten-year analysis period;

(v) Exclude the energy efficiency ("EE") rates;

(vi) Perform a ten-year rate analysis, with takeoff points for each year;

(vii) Include the marginal generation demand cost allocation share of the costs associated with the generation projects/facilities that have been given resource planning approval but are not yet in rates; and

(viii) Develop an average hourly load profile of all large commercial customer classes of each utility to shape the proposed annual capacity and energy limits and use the developed average hourly load profile as the billing determinants.

(b) Calculate the impact to the net-base tariff energy rate paid by end-use customers of the electric utility. To perform such calculation the electric utility shall:

(i) Use the utility's modeling software to perform a ten-year production cost simulation for a ten-year analysis period, with takeoff points for each year of the analysis period;

(ii) Perform two sets of production cost simulations under the guidelines provided below: A) Base Case Expansion Plan; and B) Exit Impact or "Change Case" Plan.

(A) Base Case Expansion Plan

(1) Use the utility's load, fuel and purchase power forecasts from the utility's preferred case in the current Integrated Resource Plan filing;

(2) Exclude all energy and capacity needs associated with the placeholder resources from the plan and assume all energy and capacity needs are fulfilled with market purchases at the prices contained in the fuel and purchase power forecast;

(B) Change Case Plan

1. The load forecast for the Change Case Plan is the Base Case Expansion Plan (above) load forecast with the proposed energy and capacity that eligible customers may be authorized to purchase from providers of new electric resources removed;

2. Use January 1, of the following year, as the Departure Date for the analyses;

3. Perform the production costs simulations with external sales turned off;

4. Assume no physical transmission constraints that would prevent an eligible customer from being granted its full requested transmission import rights.

(C) Non-Bypassable Rate Analysis

1. After the BTER impact is calculated (as outlined above), calculate the portion of the BTER associated with the out-of-the-money costs of the long-term renewable energy contracts ("R-BTER") that NPC has entered into and subtract those costs from the BTER impact fee to determine the "Net BTER".

2. Perform the R-BTER calculation in the same manner as was directed by the Commission in its Orders issued in Docket Nos. 15-05006 and 15-05017.

3. Subtract the monthly R-BTER cost from the monthly BTER cost to determine the monthly "Net BTER" cost.

**Section 3.**

**NAC 704.9225 Forecasts of peak demand and annual energy consumption: General requirements. (NRS 703.025, 704.210, 704.741)**

1. A utility's resource plan must contain a series of forecasts of the peak demand and annual energy consumption that represent the range of future load which its system may be required to serve. The range of future peak demand and energy consumption must be based upon and consistent with the upper and lower limits of expected economic and demographic change in the utility's service territory in the next 20 years, commencing with the year following the year in which the resource plan is filed, as follows:

- (a) A forecast of high growth;
- (b) A forecast of base growth; and
- (c) A forecast of low growth.

→ The forecast of the future retail electric demands of the utility or utilities described in subsection 1 must not include the amount of energy and capacity proposed pursuant to subsection 2 of NAC 704.925 as annual limits on the total amount of energy and capacity that eligible customers may be authorized to purchase from providers of new electric resources through transactions approved by the Commission pursuant to an application submitted pursuant to NRS 704B.310 on or after May 16, 2019;

2. In each of the forecasts described in subsection 1, the utility shall account for customer response to changes in the prices of electric energy and substitute energy sources and to the impacts of existing and proposed programs undertaken by the utility or required by governmental regulation to alter current energy use patterns.

3. To the extent data is available, peak demand must be forecasted before accounting for the effects of cogeneration.

4. The utility shall maintain internal consistency among its forecasts. The forecast of peak demand must be consistent with the forecast of energy consumption and must be based on data which is normalized for weather pursuant to NAC 704.9245.

**Section 4.**

**NAC 704.925 Resource plan: Inclusion, contents and evaluation of forecasts of energy consumption and peak demand; consideration of certain impacts; identification of change in methodology of forecasting. (NRS 703.025, 704.210, 704.741)**

1. A utility's resource plan must include forecasts of energy consumption and the peak demand for summer and winter for the system, disaggregated by rate schedule, for the 20-year period beginning with the year following the year in which the resource plan is filed. The utility may combine rate schedules if necessary to protect the confidentiality of individual customers.

**2. The utility shall include in the plan a proposal for annual limits on the total amount of energy and capacity that eligible customers may be authorized to purchase from providers of new electric resources through transactions approved by the Commission pursuant to an application submitted pursuant to NRS 704B.310 on or after May 16, 2019.**

**(a) In developing the proposal for annual limits on the total amount of energy and capacity that eligible customers may be authorized to purchase from providers of new electric resources and the forecasts in the plan, the utility or utilities must use a sensitivity analysis that, at a minimum, addresses load growth, import capacity, system constraints and the effect of eligible customers purchasing less energy and capacity than authorized by the proposed annual limit.**

**(b) The proposal in the plan must include, without limitation:**

**(i) A forecast of the load growth of the utility or utilities;**

**(ii) The number of eligible customers that are currently being served by or anticipated to be served by the utility or utilities;**

**(iii) Information concerning the infrastructure of the utility or utilities that is available to accommodate market-based new electric resources;**

**(iv) Proposals to ensure the stability of rates and the availability and reliability of electric service; and**

**(v) For each year of the plan, impact fees applicable to each megawatt or each megawatt hour to account for costs reflected in the base tariff general rate and base tariff energy rate paid by end-use customers of the electric utility.**

**3[2].** The utility shall identify components of residential and commercial energy and demand for which initiatives for energy efficiency and conservation are applicable. The utility shall include in its forecast an assessment of the impacts of such initiatives on the identified components and on overall levels of energy consumption and demand by residential and commercial customers.

**4[3].** The utility's forecast must include:

(a) Estimated annual losses of energy on the system for the 20-year period of the resource plan; and

(b) Estimated annual energy to be used by the utility for the 20-year period of the resource plan.

**5[4].** The utility shall consider the impact of applicable new technologies and the impact of applicable new governmental programs or regulations.

**6[5].** The utility shall consider the impact of distributed generation and customers who acquire energy pursuant to NRS 704.787 or chapter 704B of NRS.



7[6]. The utility shall provide a reasonable estimate of the demand from interruptible loads and the total demand of each type of interruptible load.

8[7]. The utility shall identify all standby loads and the total demand of each type of standby load and include an analysis of the likelihood and effect of incurring such demands at the time of the system peak of the utility.

9[8]. All forecast values for the entire system of the utility must be reported. The utility shall separately estimate the contribution to peak demand and energy consumption for the components of the system located within the State of Nevada and for the components of the system located outside the State of Nevada.

10[9]. A resource plan must contain a graphical representation of projected load duration curves for the year following the year in which the resource plan was filed and every fifth year thereafter for the remainder of the period covered by the resource plan.

11[10]. To verify and complete the final forecasts, the utility may evaluate the forecasts with the results of alternative forecasting methods.

12[11]. Any change in the methodology of forecasting used by the utility from that used in the utility's previous resource plan must be identified in the current resource plan of the utility.

## Section 5.

**NAC 704.9494 Approval of action plan; determination that elements of energy supply plan are prudent; recovery of costs to carry out approved plans. (NRS 703.025, 704.210, 704.741, 704.751, 704.785)**

1. The Commission will issue an order:

(a) Approving the action plan of the utility as filed; [ø]

(b) **Modifying the plan; or**

(c) If the plan is not approved as filed, specifying those parts of the action plan the Commission considers inadequate.

2. **In considering whether to accept or modify a proposal for annual limits on the total amount of energy and capacity that eligible customers may be authorized to purchase from providers of new electric resources through transactions approved by the Commission pursuant to an application submitted pursuant to NRS 704B.310 after May 16, 2019, which is included in the plan pursuant to subsection 6 of NRS 704.741, the Commission shall consider whether the proposed annual limits:**

**(a) Further the public interest, including, without limitation, whether the proposed annual limits promote safe, economic, efficient and reliable electric service to all customers of electric service in this State;**

**(b) Align an economically viable utility model with state public policy goals; and**

**(c) Encourage the development and use of renewable energy resources located in this State and, in particular, renewable energy resources that are coupled with energy storage.**

3. Approval by the Commission of an action plan constitutes a finding that the programs and projects contained in that action plan, other than the energy supply plan, are prudent, including, without limitation, construction of facilities, purchased power

obligations, programs for energy efficiency and conservation and impacts of imputed debt calculations associated with renewable energy contracts or energy efficiency contracts. If the Commission subsequently determines that any information relied upon when issuing its order approving the action plan was based upon information that was known or should have been known by the utility to be untrue or false at the time the information was presented, the Commission may revoke, rescind or otherwise modify its approval of the action plan.

4[3]. If, at the time that the Commission approves the action plan of the utility, the Commission determines that the elements of the energy supply plan are prudent, the Commission will specifically include in the approval of the action plan its determination that the elements contained in the energy supply plan are prudent. For the Commission to make a determination that the elements of the energy supply plan are prudent:

(a) The energy supply plan must not contain any feature or mechanism that the Commission finds would impair the restoration of the creditworthiness of the utility or would lead to a deterioration of the creditworthiness of the utility.

(b) The energy supply plan must optimize the value of the overall supply portfolio for the utility for the benefit of its bundled retail customers.

(c) The utility must demonstrate that the energy supply plan balances the objectives of minimizing the cost of supply, minimizing retail price volatility and maximizing the reliability of supply over the term of the plan.

Ê Failure by a utility to demonstrate that its energy supply plan is prudent in accordance with this subsection does not otherwise affect approval of the action plan, including the energy supply plan, and the utility may subsequently seek a determination that the energy supply plan is prudent in the appropriate deferred energy proceeding.

5[4]. A utility may recover all costs that it prudently and reasonably incurs in carrying out an approved action plan in the appropriate separate rate proceeding. A utility may recover all costs that are prudently and reasonably incurred in carrying out the approved energy supply plan, including deviations pursuant to subsection 1 of NAC 704.9504 approved by the Commission in the appropriate deferred energy application filed pursuant to NAC 704.023 to 704.195, inclusive.

**PROOF OF SERVICE**

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by electronic mail to the recipient's current electronic mail address properly addressed to:

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DATED at Carson City, Nevada, on the 30<sup>th</sup> day of August, 2019.

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An employee of the Public Utilities  
Commission of Nevada