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FIRST REPRINT

S.B. 547

SENATE BILL NO. 547—SENATORS BROOKS, CANNIZZARO,
SPEARMAN, CANCELA, PARKS; DENIS, DONDERO LOOP,
OHRENSCHALL, RATTI, WASHINGTON AND WOODHOUSE

MAY 16, 2019

JOINT SPONSORS: ASSEMBLYMEN FRIERSON
AND MONROE-MORENO

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions relating to providers of new
electric resources. (BDR 58-913)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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 energy; excluding from regulation as a public utility certain plants or equipment used by a data center; revising provisions governing the applicability of certain assessments imposed by the Public Utilities Commission of Nevada; revising the information required to be included in the integrated resource plan filed by an electric utility with the Commission; revising the criteria to be eligible to apply to the Commission to purchase energy, capacity or ancillary services from a provider of new electric resources; revising the requirements a provider of new electric resources must satisfy to be eligible to sell energy, capacity or ancillary services to eligible customers; revising the requirements an eligible customer must satisfy to be authorized to purchase energy, capacity or ancillary services from a provider of new electric resources; revising the terms and conditions for the purchase of energy, capacity or ancillary services by eligible customers who have been approved to make such purchases from a provider of new electric resources; repealing provisions governing certain agreements relating to generation assets of an electric utility; and providing other matters properly relating thereto.



* S B 5 4 7 R 1 *

Legislative Counsel's Digest:

1 **Section 2** of this bill excludes from regulation as a public utility certain plants
2 or equipment used by a data center but only with respect to operations of the data
3 center which consist of providing electric service.

4 Existing law authorizes certain customers of an electric utility to apply to the
5 Public Utilities Commission of Nevada for approval to purchase energy, capacity
6 and ancillary services from a provider of new electric resources. If the Commission
7 approves such an application, the Commission is required to order such terms,
8 conditions and payments as the Commission deems necessary and appropriate to
9 ensure that the transaction will not be contrary to the public interest and the eligible
10 customer is authorized to begin purchasing energy, capacity and ancillary services
11 from the provider of new electric resources in accordance with the order of the
12 Commission. (NRS 704B.310)

13 Existing law requires the Commission to levy and collect an annual mill tax on
14 public utilities that are subject to the jurisdiction of the Commission. (NRS
15 704.033) Under existing law, if the Commission authorizes a customer of an
16 electric utility to purchase energy, capacity and ancillary services from a provider
17 of new electric resources, the Commission is required to order the customer to pay
18 its share of the annual mill tax levied by the Commission and to pay any other tax,
19 fee or assessment that would be due to a governmental entity had the customer
20 continued to purchase energy, capacity or ancillary services from the electric utility.
21 (NRS 704B.360) **Sections 3 and 21** of this bill revise this requirement by removing
22 the requirement for an order of the Commission and, instead, imposing the
23 requirement to pay the annual mill tax and any other taxes, fees or assessments on
24 the customer or the provider of new electric resources, as applicable.

25 Existing law requires each electric utility to submit to the Commission every 3
26 years an integrated resource plan to increase the utility's supply of electricity or
27 decrease the demands made on its system by its customers. (NRS 704.741) **Section**
28 **5** of this bill requires the integrated resource plan to include a proposal for annual
29 limits on the energy and capacity that certain eligible customers are authorized to
30 purchase from providers of new electric resources through transactions approved by
31 the Commission pursuant to an application submitted on or after May 16, 2019.
32 **Section 5** further requires the proposal to include certain information, including,
33 without limitation, impact fees applicable to each megawatt or megawatt hour to
34 account for certain costs. **Section 6** of this bill requires the Commission, in
35 considering whether to approve or modify the annual limits, to consider whether the
36 proposed limits promote safe, economic, efficient and reliable electric service, align
37 an economically viable utility model with state public policy goals and encourage
38 the development and use of renewable energy resources.

39 **Section 16** of this bill prohibits a provider of new electric resources from
40 selling energy, capacity or ancillary services to any person or governmental entity
41 in this State unless the provider holds a license to do so issued by the Commission.
42 **Section 9** of this bill establishes the requirements a provider of new electric
43 resources is required to satisfy to qualify for a license and authorizes the
44 Commission to adopt regulations requiring a provider of new electric resources to
45 provide certain information. **Section 26** of this bill authorizes a provider of new
46 electric resources who sold energy, capacity or ancillary services to a customer
47 before the effective date of this bill to continue to sell energy, capacity or ancillary
48 services to that customer without obtaining a license if the provider submits an
49 application for a license to the Commission not later than 30 days after a date
50 established by the Commission by regulation and the Commission issues the
51 license. **Sections 8 and 11** of this bill make conforming changes.

52 **Section 10** of this bill: (1) requires the Commission to adopt regulations to
53 establish a procedure by which a customer who has been approved to purchase
54 energy, capacity or ancillary services from a provider of new electric resources may



55 apply to the Commission to return to purchasing bundled electric service from an
56 electric utility; (2) authorizes the Commission to establish such terms and
57 conditions on such a return as the Commission deems necessary and appropriate to
58 prevent harm to customers of the electric utility; (3) authorizes the Commission to
59 limit the number of times a customer is authorized to be approved to purchase
60 energy, capacity or ancillary services from a provider of new electric resources; and
61 (4) authorizes the Commission to establish limitations on the use of certain tariffs
62 approved by the Commission.

63 **Section 12** of this bill provides that a nongovernmental commercial or
64 industrial end-use customer or a governmental entity that was not a customer of an
65 electric utility at any time before the effective date of this bill is eligible to apply to
66 the Commission for approval to purchase energy, capacity or ancillary services
67 from a provider of new electric resources if certain requirements are met, including
68 a requirement that the average annual load of such a customer will be 1 megawatt
69 or more. **Section 25** of this bill provides that this provision does not apply to a
70 person who, before the effective date of this bill, was approved to purchase energy,
71 capacity and ancillary services from a provider of new electric resources.

72 Under existing law, a provider of new electric resources is qualified to sell
73 energy, capacity or ancillary services to an eligible customer if, among other
74 criteria, the provider makes the energy, capacity or ancillary services available from
75 certain generation assets. (NRS 704B.110, 704B.130) **Section 13** of this bill
76 authorizes a provider of new electric resources to make energy, capacity and
77 ancillary services available by market purchases made through the provider.

78 Existing law provides that the provisions of existing law governing the
79 purchase of energy, capacity or ancillary services from a provider of new electric
80 resources do not affect any rights or obligations arising under certain contracts
81 which were in existence on July 17, 2001. (NRS 704B.170) **Section 14** of this bill
82 removes the date from this provision and, thus, provides that the existing law
83 governing the purchase of energy, capacity or ancillary services from a provider of
84 new electric resources does not affect any contract.

85 Existing law requires the Public Utilities Commission of Nevada to submit to
86 the Legislative Commission, not later than 2 business days after receiving a request
87 from the Legislative Commission, a written report summarizing certain information
88 related to transactions between providers of new electric resources and customers
89 approved by the Commission to purchase energy, capacity or ancillary services
90 from such providers. (NRS 704B.210) **Section 15** of this bill requires this report to
91 include only the public information that the customer included in the application
92 filed with the Commission rather than all information that the customer included in
93 the application.

94 **Section 17** of this bill revises the procedure to apply for and obtain the
95 approval of the Commission to purchase energy, capacity and ancillary services
96 from a provider of new electric resources by: (1) authorizing an eligible customer to
97 file an application with the Commission only between January 2 and February 1 of
98 each calendar year; (2) requiring the application to be filed with the Commission
99 not later than 280 days, rather than not later than 180 days, before the date on
100 which the customer intends to begin purchasing energy, capacity or ancillary
101 services from a provider of new electric resources; (3) requiring the information
102 included with the application to be specific information about the customer, the
103 proposed provider and the terms and conditions of the proposed transaction; (4)
104 requiring the specific information included with the application to include
105 information identifying transmission requirements and the extent to which
106 transmission import capacity is needed; (5) prohibiting the Commission from
107 approving the application unless the Commission determines the application is in
108 the public interest rather than requiring approval of the application unless the
109 Commission finds the application contrary to the public interest; (6) revising the



110 factors the Commission is required to consider in determining whether the proposed
111 transaction is in the public interest; (7) revising the terms and conditions which the
112 Commission is required to order if it approves the application; and (8) prohibiting
113 the approval of an application if the approval of the application would cause the
114 energy and capacity that certain eligible customers are authorized to purchase from
115 providers of new electric resources to exceed the annual limit included in the
116 resource plan of the electric utility that has been accepted by the Commission.

117 Existing law authorizes a customer that is purchasing energy, capacity or
118 ancillary services from a provider of new electric resources to purchase energy,
119 capacity or ancillary services from an alternative provider without obtaining the
120 approval of the Commission if the terms and conditions of that transaction, other
121 than the price of the energy, capacity or ancillary services, conform to the
122 transaction originally approved by the Commission. (NRS 704B.325) **Section 18** of
123 this bill prohibits the purchase of energy, capacity or ancillary services from an
124 alternative provider unless the alternative provider is licensed as a provider of new
125 electric resources by the Commission pursuant to **section 9**.

126 Existing law prohibits a provider of new electric resources from selling energy,
127 capacity or ancillary services to a customer unless the customer has a time-of-use
128 meter installed at the point of delivery of energy to the customer. Under existing
129 law, an electric utility is required to install a time-of-use meter at each point of
130 delivery of energy to the customer if the customer does not have a time-of-use
131 meter at that point of delivery. (NRS 704B.340) **Section 20** of this bill requires the
132 Commission to determine the date by which the electric utility is required to ensure
133 that metering equipment is operational for each customer who has been approved
134 by the Commission to purchase energy, capacity or ancillary services from a
135 provider of new electric resources.

136 Existing law requires each utility to: (1) conduct a vulnerability assessment in
137 accordance with the requirements of certain federal and regional agencies; (2)
138 prepare and maintain an emergency response plan in accordance with the
139 requirements of certain federal and regional agencies; and (3) at least once each
140 year, review its vulnerability assessment and emergency response plan and submit
141 to the Division of Emergency Management of the Department of Public Safety the
142 results of that review and any additions or modifications to its emergency response
143 plan. (NRS 239C.270) **Section 23** of this bill imposes these requirements on
144 providers of new electric resources.

145 **Section 24** of this bill provides that any application to purchase energy,
146 capacity or ancillary services from a provider of new electric resources that was
147 submitted to the Commission before the passage and approval of this bill is deemed
148 to be denied unless the application was filed before May 16, 2019. **Section 24**
149 further provides that the provisions of existing law governing the consideration and
150 disposition of an application apply to an application filed before May 16, 2019.

151 **Sections 25 and 26** of this bill enact provisions governing eligible customers
152 who were approved by the Commission to purchase energy, capacity or ancillary
153 services before the effective date of this bill.

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

1 **Section 1.** NRS 703.330 is hereby amended to read as follows:
2 703.330 1. A complete record must be kept of all hearings
3 before the Commission. All testimony at such hearings must be
4 taken down by the stenographer appointed by the Commission or,



1 under the direction of any competent person appointed by the
2 Commission, must be reported by sound recording equipment in
3 the manner authorized for reporting testimony in district courts. The
4 testimony reported by a stenographer must be transcribed, and the
5 transcript filed with the record in the matter. The Commission may
6 by regulation provide for the transcription or safekeeping of sound
7 recordings. The costs of recording and transcribing testimony at any
8 hearing, except those hearings ordered pursuant to NRS 703.310,
9 must be paid by the applicant. If a complaint is made pursuant to
10 NRS 703.310 by a customer or by a political subdivision of the
11 State or municipal organization, the complainant is not liable for any
12 costs. Otherwise, if there are several applicants or parties to any
13 hearing, the Commission may apportion the costs among them in its
14 discretion.

15 2. A copy of the proceedings and testimony must be furnished
16 to any party, on payment of a reasonable amount to be fixed by the
17 Commission, and the amount must be the same for all parties.

18 3. The provisions of this section do not prohibit the
19 Commission from:

20 (a) Restricting access to the records and transcripts of a hearing
21 pursuant to paragraph (a) of subsection 3 of NRS 703.196.

22 (b) Protecting the confidentiality of information pursuant to
23 NRS 704B.310 ~~[, 704B.320]~~ or 704B.325.

24 **Sec. 2.** NRS 704.021 is hereby amended to read as follows:

25 704.021 "Public utility" or "utility" does not include:

26 1. Persons engaged in the production and sale of natural gas,
27 other than sales to the public, or engaged in the transmission of
28 natural gas other than as a common carrier transmission or
29 distribution line or system.

30 2. Persons engaged in the business of furnishing, for
31 compensation, water or services for the disposal of sewage, or both,
32 to persons within this State if:

33 (a) They serve 25 persons or less; and

34 (b) Their gross sales for water or services for the disposal of
35 sewage, or both, amounted to \$25,000 or less during the
36 immediately preceding 12 months.

37 3. Persons not otherwise engaged in the business of furnishing,
38 producing or selling water or services for the disposal of sewage, or
39 both, but who sell or furnish water or services for the disposal of
40 sewage, or both, as an accommodation in an area where water or
41 services for the disposal of sewage, or both, are not available from a
42 public utility, cooperative corporations and associations or political
43 subdivisions engaged in the business of furnishing water or services
44 for the disposal of sewage, or both, for compensation, to persons
45 within the political subdivision.



1 4. Persons who are engaged in the production and sale of
2 energy, including electricity, to public utilities, cities, counties or
3 other entities which are reselling the energy to the public.

4 5. Persons who are subject to the provisions of NRS 590.465 to
5 590.645, inclusive.

6 6. Persons who are engaged in the sale or use of special fuel as
7 defined in NRS 366.060.

8 7. Persons who provide water from water storage, transmission
9 and treatment facilities if those facilities are for the storage,
10 transmission or treatment of water from mining operations.

11 8. Persons who are video service providers, as defined in NRS
12 711.151, except for those operations of the video service provider
13 which consist of providing a telecommunication service to the
14 public, in which case the video service provider is a public utility
15 only with regard to those operations of the video service provider
16 which consist of providing a telecommunication service to the
17 public.

18 9. Persons who own or operate a net metering system described
19 in paragraph (c) of subsection 1 of NRS 704.771.

20 10. Persons who for compensation own or operate individual
21 systems which use renewable energy to generate electricity and sell
22 the electricity generated from those systems to not more than one
23 customer of the public utility per individual system if each
24 individual system is:

25 (a) Located on the premises of another person;

26 (b) Used to produce not more than 150 percent of that other
27 person's requirements for electricity on an annual basis for the
28 premises on which the individual system is located; and

29 (c) Not part of a larger system that aggregates electricity
30 generated from renewable energy for resale or use on premises other
31 than the premises on which the individual system is located.

32 ↪ As used in this subsection, "renewable energy" has the meaning
33 ascribed to it in NRS 704.7811.

34 11. Persons who own, control, operate or manage a facility that
35 supplies electricity only for use to charge electric vehicles.

36 *12. Any plant or equipment that is used by a data center to*
37 *produce, deliver or furnish electricity at agreed-upon prices for or*
38 *to persons on the premises of the data center for the sole purpose*
39 *of those persons storing, processing or distributing data, but only*
40 *with regard to those operations which consist of providing electric*
41 *service. As used in this subsection, "data center" has the meaning*
42 *ascribed to it in NRS 360.754.*

43 **Sec. 3.** NRS 704.033 is hereby amended to read as follows:

44 704.033 1. Except as otherwise provided in subsection 6, the
45 Commission shall levy and collect an annual assessment from all



1 public utilities, *providers of new electric resources*, providers of
2 discretionary natural gas service and alternative sellers subject to the
3 jurisdiction of the Commission.

4 2. Except as otherwise provided in subsections 3 and 4, the
5 annual assessment must be:

6 (a) For the use of the Commission, not more than 3.50 mills; and

7 (b) For the use of the Consumer's Advocate, not more than 0.75
8 mills,

9 ↪ on each dollar of gross operating revenue derived from the
10 intrastate operations of such utilities, *providers of new electric*
11 *resources*, providers of discretionary natural gas service and
12 alternative sellers in the State of Nevada. The total annual
13 assessment must be not more than 4.25 mills.

14 3. The levy for the use of the Consumer's Advocate must not
15 be assessed against railroads.

16 4. The minimum assessment in any 1 year must be \$100.

17 5. The gross operating revenue of the utilities must be
18 determined for the preceding calendar year. In the case of:

19 (a) Telecommunication providers, except as provided in
20 paragraph (c), the revenue shall be deemed to be all intrastate
21 revenues.

22 (b) Railroads, the revenue shall be deemed to be the revenue
23 received only from freight and passenger intrastate movements.

24 (c) All public utilities, *providers of new electric resources*,
25 providers of discretionary natural gas service and alternative sellers,
26 the revenue does not include the proceeds of any commodity, energy
27 or service furnished to another public utility, *provider of new*
28 *electric resources*, provider of discretionary natural gas service or
29 alternative seller for resale.

30 6. Providers of commercial mobile radio service are not subject
31 to the annual assessment and, in lieu thereof, shall pay to the
32 Commission an annual licensing fee of \$200.

33 **7. "Provider of new electric resources" has the meaning**
34 **ascribed to it in NRS 704B.130.**

35 **Sec. 4.** NRS 704.035 is hereby amended to read as follows:

36 704.035 1. On or before June 15 of each year, the
37 Commission shall mail revenue report forms to all public utilities,
38 *providers of new electric resources*, providers of discretionary
39 natural gas service and alternative sellers under its jurisdiction, to
40 the address of those utilities, *providers of new electric resources*,
41 providers of discretionary natural gas service and alternative sellers
42 on file with the Commission. The revenue report form serves as
43 notice of the Commission's intent to assess such entities, but failure
44 to notify any such entity does not invalidate the assessment with
45 respect thereto.



1 2. Each public utility, *provider of new electric resources*,
2 provider of discretionary natural gas service and alternative seller
3 subject to the provisions of NRS 704.033 shall complete the revenue
4 report referred to in subsection 1, compute the assessment and return
5 the completed revenue report to the Commission accompanied by
6 payment of the assessment and any fee due, pursuant to the
7 provisions of subsection 5.

8 3. The assessment is due on July 1 of each year, but may, at the
9 option of the public utility, *provider of new electric resources*,
10 provider of discretionary natural gas service and alternative seller,
11 be paid quarterly on July 1, October 1, January 1 and April 1.

12 4. The assessment computed by the public utility, *provider of*
13 *new electric resources*, provider of discretionary natural gas service
14 or alternative seller is subject to review and audit by the
15 Commission, and the amount of the assessment may be adjusted by
16 the Commission as a result of the audit and review.

17 5. Any public utility, *provider of new electric resources*,
18 provider of discretionary natural gas service or alternative seller
19 failing to pay the assessment provided for in NRS 704.033 on or
20 before August 1, or if paying quarterly, on or before August 1,
21 October 1, January 1 or April 1, shall pay, in addition to such
22 assessment, a fee of 1 percent of the total unpaid balance for each
23 month or portion thereof that the assessment is delinquent, or \$10,
24 whichever is greater, but no fee may exceed \$1,000 for each
25 delinquent payment.

26 6. When a public utility, *provider of new electric resources*,
27 provider of discretionary natural gas service or alternative seller
28 sells, transfers or conveys substantially all of its assets or, if
29 applicable, its certificate of public convenience and necessity **[H]** *or*
30 *license*, the Commission shall determine, levy and collect the
31 accrued assessment for the current year not later than 30 days after
32 the sale, transfer or conveyance, unless the transferee has assumed
33 liability for the assessment. For purposes of this subsection, the
34 jurisdiction of the Commission over the selling, transferring or
35 conveying public utility, *provider of new electric resources*,
36 provider of discretionary natural gas service or alternative seller
37 continues until it has paid the assessment.

38 7. The Commission may bring an appropriate action in its own
39 name for the collection of any assessment and fee which is not paid
40 as provided in this section.

41 8. The Commission shall, upon collection, transfer to the
42 Account for the Consumer's Advocate that portion of the
43 assessments collected which belongs to the Consumer's Advocate.

44 9. *“Provider of new electric resources” has the meaning*
45 *ascribed to it in NRS 704B.130.*



1 **Sec. 5.** NRS 704.741 is hereby amended to read as follows:

2 704.741 1. A utility which supplies electricity in this State
3 shall, on or before June 1 of every third year, in the manner
4 specified by the Commission, submit a plan to increase its supply of
5 electricity or decrease the demands made on its system by its
6 customers to the Commission. Two or more utilities that are
7 affiliated through common ownership and that have an
8 interconnected system for the transmission of electricity shall
9 submit a joint plan.

10 2. The Commission shall, by regulation:

11 (a) Prescribe the contents of such a plan, including, but not
12 limited to, the methods or formulas which are used by the utility or
13 utilities to:

14 (1) Forecast the future demands ~~and~~, *except that a forecast of*
15 *the future retail electric demands of the utility or utilities must not*
16 *include the amount of energy and capacity proposed pursuant to*
17 *subsection 6 as annual limits on the total amount of energy and*
18 *capacity that eligible customers may be authorized to purchase*
19 *from providers of new electric resources through transactions*
20 *approved by the Commission pursuant to an application submitted*
21 *pursuant to NRS 704B.310 on or after May 16, 2019; and*

22 (2) Determine the best combination of sources of supply to
23 meet the demands or the best method to reduce them; and

24 (b) Designate renewable energy zones and revise the designated
25 renewable energy zones as the Commission deems necessary.

26 3. The Commission shall require the utility or utilities to
27 include in the plan:

28 (a) An energy efficiency program for residential customers
29 which reduces the consumption of electricity or any fossil fuel and
30 which includes, without limitation, the use of new solar thermal
31 energy sources.

32 (b) A proposal for the expenditure of not less than 5 percent of
33 the total expenditures related to energy efficiency and conservation
34 programs on energy efficiency and conservation programs directed
35 to low-income customers of the electric utility.

36 (c) A comparison of a diverse set of scenarios of the best
37 combination of sources of supply to meet the demands or the best
38 methods to reduce the demands, which must include at least one
39 scenario of low carbon intensity that includes the deployment of
40 distributed generation.

41 (d) An analysis of the effects of the requirements of NRS
42 704.766 to 704.777, inclusive, on the reliability of the distribution
43 system of the utility or utilities and the costs to the utility or utilities
44 to provide electric service to all customers. The analysis must



1 include an evaluation of the costs and benefits of addressing issues
2 of reliability through investment in the distribution system.

3 (e) A list of the utility's or utilities' assets described in
4 NRS 704.7338.

5 (f) A surplus asset retirement plan as required by NRS 704.734.

6 4. The Commission shall require the utility or utilities to
7 include in the plan a plan for construction or expansion of
8 transmission facilities to serve renewable energy zones and to
9 facilitate the utility or utilities in meeting the portfolio standard
10 established by NRS 704.7821.

11 5. The Commission shall require the utility or utilities to
12 include in the plan a distributed resources plan. The distributed
13 resources plan must:

14 (a) Evaluate the locational benefits and costs of distributed
15 resources. This evaluation must be based on reductions or increases
16 in local generation capacity needs, avoided or increased investments
17 in distribution infrastructure, safety benefits, reliability benefits and
18 any other savings the distributed resources provide to the electricity
19 grid for this State or costs to customers of the electric utility or
20 utilities.

21 (b) Propose or identify standard tariffs, contracts or other
22 mechanisms for the deployment of cost-effective distributed
23 resources that satisfy the objectives for distribution planning.

24 (c) Propose cost-effective methods of effectively coordinating
25 existing programs approved by the Commission, incentives and
26 tariffs to maximize the locational benefits and minimize the
27 incremental costs of distributed resources.

28 (d) Identify any additional spending necessary to integrate cost-
29 effective distributed resources into distribution planning consistent
30 with the goal of yielding a net benefit to the customers of the
31 electric utility or utilities.

32 (e) Identify barriers to the deployment of distributed resources,
33 including, without limitation, safety standards related to technology
34 or operation of the distribution system in a manner that ensures
35 reliable service.

36 6. *The Commission shall require the utility or utilities to*
37 *include in the plan a proposal for annual limits on the total*
38 *amount of energy and capacity that eligible customers may be*
39 *authorized to purchase from providers of new electric resources*
40 *through transactions approved by the Commission pursuant to an*
41 *application submitted pursuant to NRS 704B.310 on or after*
42 *May 16, 2019. In developing the proposal and the forecasts in the*
43 *plan, the utility or utilities must use a sensitivity analysis that, at a*
44 *minimum, addresses load growth, import capacity, system*
45 *constraints and the effect of eligible customers purchasing less*



1 *energy and capacity than authorized by the proposed annual limit.*
2 *The proposal in the plan must include, without limitation:*

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

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

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

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

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

15 7. *The annual limits proposed pursuant to subsection 6 shall*
16 *not apply to energy and capacity sales to an eligible customer if*
17 *the eligible customer:*

18 (a) *Was not an end-use customer of the electric utility at any*
19 *time before the effective date of this act; and*

20 (b) *Would have a peak load of 10 megawatts or more in the*
21 *service territory of an electric utility within 2 years of initially*
22 *taking electric service.*

23 8. *As used in this section:*

24 (a) *“Carbon intensity” means the amount of carbon by weight*
25 *emitted per unit of energy consumed.*

26 (b) *“Distributed generation system” has the meaning ascribed to*
27 *it in NRS 701.380.*

28 (c) *“Distributed resources” means distributed generation*
29 *systems, energy efficiency, energy storage, electric vehicles and*
30 *demand-response technologies.*

31 (d) *“Eligible customer” has the meaning ascribed to it in*
32 *NRS 704B.080.*

33 (e) *“Energy” has the meaning ascribed to it in NRS 704B.090.*

34 (f) *“New electric resource” has the meaning ascribed to it in*
35 *NRS 704B.110.*

36 (g) *“Provider of new electric resources” has the meaning*
37 *ascribed to it in NRS 704B.130.*

38 (h) *“Renewable energy zones” means specific geographic zones*
39 *where renewable energy resources are sufficient to develop*
40 *generation capacity and where transmission constrains the delivery*
41 *of electricity from those resources to customers.*

42 (i) *“Sensitivity analysis” means a set of methods or procedures*
43 *which results in a determination or estimation of the sensitivity of*
44 *a result to a change in given data or a given assumption.*



1 **Sec. 6.** NRS 704.746 is hereby amended to read as follows:

2 704.746 1. After a utility has filed its plan pursuant to NRS
3 704.741, the Commission shall convene a public hearing on the
4 adequacy of the plan.

5 2. The Commission shall determine the parties to the public
6 hearing on the adequacy of the plan. A person or governmental
7 entity may petition the Commission for leave to intervene as a party.
8 The Commission must grant a petition to intervene as a party in the
9 hearing if the person or entity has relevant material evidence to
10 provide concerning the adequacy of the plan. The Commission may
11 limit participation of an intervener in the hearing to avoid
12 duplication and may prohibit continued participation in the hearing
13 by an intervener if the Commission determines that continued
14 participation will unduly broaden the issues, will not provide
15 additional relevant material evidence or is not necessary to further
16 the public interest.

17 3. In addition to any party to the hearing, any interested person
18 may make comments to the Commission regarding the contents and
19 adequacy of the plan.

20 4. After the hearing, the Commission shall determine whether:

21 (a) The forecast requirements of the utility or utilities are based
22 on substantially accurate data and an adequate method of
23 forecasting.

24 (b) The plan identifies and takes into account any present and
25 projected reductions in the demand for energy that may result from
26 measures to improve energy efficiency in the industrial,
27 commercial, residential and energy producing sectors of the area
28 being served.

29 (c) The plan adequately demonstrates the economic,
30 environmental and other benefits to this State and to the customers
31 of the utility or utilities associated with the following possible
32 measures and sources of supply:

33 (1) Improvements in energy efficiency;

34 (2) Pooling of power;

35 (3) Purchases of power from neighboring states or countries;

36 (4) Facilities that operate on solar or geothermal energy or
37 wind;

38 (5) Facilities that operate on the principle of cogeneration or
39 hydrogeneration;

40 (6) Other generation facilities; and

41 (7) Other transmission facilities.

42 5. The Commission shall give preference to the measures and
43 sources of supply set forth in paragraph (c) of subsection 4 that:

44 (a) Provide the greatest economic and environmental benefits to
45 the State;



- 1 (b) Are consistent with the provisions of this section;
- 2 (c) Provide levels of service that are adequate and reliable;
- 3 (d) Provide the greatest opportunity for the creation of new jobs
- 4 in this State; and

5 (e) Provide for diverse electricity supply portfolios and which
6 reduce customer exposure to the price volatility of fossil fuels and
7 the potential costs of carbon.

8 ↪ In considering the measures and sources of supply set forth in
9 paragraph (c) of subsection 4 and determining the preference given
10 to such measures and sources of supply, the Commission shall
11 consider the cost of those measures and sources of supply to the
12 customers of the electric utility or utilities.

13 6. The Commission shall:

14 (a) Adopt regulations which determine the level of preference to
15 be given to those measures and sources of supply; and

16 (b) Consider the value to the public of using water efficiently
17 when it is determining those preferences.

18 7. The Commission shall:

19 (a) Consider the level of financial commitment from developers
20 of renewable energy projects in each renewable energy zone, as
21 designated pursuant to subsection 2 of NRS 704.741; and

22 (b) Adopt regulations establishing a process for considering
23 such commitments including, without limitation, contracts for the
24 sale of energy, leases of land and mineral rights, cash deposits and
25 letters of credit.

26 8. The Commission shall, after a hearing, review and accept or
27 modify an emissions reduction and capacity replacement plan which
28 includes each element required by NRS 704.7316. In considering
29 whether to accept or modify an emissions reduction and capacity
30 replacement plan, the Commission shall consider:

31 (a) The cost to the customers of the electric utility or utilities to
32 implement the plan;

33 (b) Whether the plan provides the greatest economic benefit to
34 this State;

35 (c) Whether the plan provides the greatest opportunities for the
36 creation of new jobs in this State; and

37 (d) Whether the plan represents the best value to the customers
38 of the electric utility or utilities.

39 ***9. In considering whether to accept or modify a proposal for***
40 ***annual limits on the total amount of energy and capacity that***
41 ***eligible customers may be authorized to purchase from providers***
42 ***of new electric resources through transactions approved by the***
43 ***Commission pursuant to an application submitted pursuant to***
44 ***NRS 704B.310 after May 16, 2019, which is included in the plan***



1 *pursuant to subsection 6 of NRS 704.741, the Commission shall*
2 *consider whether the proposed annual limits:*

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

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

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

12 **Sec. 7.** Chapter 704B of NRS is hereby amended by adding
13 thereto the provisions set forth as sections 8, 9 and 10 of this act.

14 **Sec. 8.** *“License” means a license to sell energy, capacity*
15 *and ancillary services to an eligible customer issued by the*
16 *Commission pursuant to section 9 of this act.*

17 **Sec. 9. 1.** *To qualify for a license, a provider of new electric*
18 *resources must do all of the following:*

19 *(a) Submit an application for the license to the Commission*
20 *that includes all information deemed necessary by the Commission*
21 *to determine whether the provider of new electric resources is*
22 *qualified to obtain a license pursuant to this section.*

23 *(b) Demonstrate to the satisfaction of the Commission that the*
24 *provider of new electric resources is authorized to conduct*
25 *business pursuant to the laws of this State and the ordinances of*
26 *the county, city or town in which the provider sells or will sell to*
27 *sell energy, capacity and ancillary services to eligible customers.*

28 *(c) Demonstrate to the satisfaction of the Commission that the*
29 *provider of new electric resources has the technical competence*
30 *necessary to sell energy, capacity and ancillary services to eligible*
31 *customers.*

32 *(d) Demonstrate to the satisfaction of the Commission that the*
33 *provider of new electric resources has the managerial competence*
34 *necessary to sell energy, capacity and ancillary services to eligible*
35 *customers.*

36 *(e) Demonstrate to the satisfaction of the Commission that the*
37 *provider of new electric resources has the financial capability to*
38 *sell energy, capacity and ancillary services to eligible customers.*

39 *(f) Demonstrate to the satisfaction of the Commission*
40 *financial responsibility.*

41 *(g) Demonstrate to the satisfaction of the Commission fitness*
42 *to sell energy, capacity and ancillary services to eligible customers.*
43 *In determining whether a provider of new electric resources is fit*
44 *to sell energy, capacity and ancillary services to eligible customers,*
45 *the Commission may consider:*



1 (1) *Whether legal action has been taken against the*
2 *provider or any of its affiliates in another jurisdiction;*

3 (2) *Whether customer complaints have been made*
4 *concerning the provider or any of its affiliates in another*
5 *jurisdiction; and*

6 (3) *The nature of any legal action or customer complaint*
7 *against the provider or any of its affiliates in another jurisdiction.*

8 (h) *Demonstrate to the satisfaction of the Commission that the*
9 *provider of new electric resources is in compliance with or will*
10 *comply with NRS 704.78213.*

11 2. *The Commission may issue a license to a provider of new*
12 *electric resources that is qualified for a license pursuant to*
13 *subsection 1. The Commission, after notice and a hearing in the*
14 *manner set forth in chapter 703 of NRS, may deny the application*
15 *of a provider of new electric resources for a license or limit,*
16 *suspend or revoke a license issued to a provider of new electric*
17 *resources if such action is necessary to protect the public interest*
18 *or to enforce a provision of the laws of this State or a regulation*
19 *adopted by the Commission that is applicable to the provider of*
20 *new electric resources.*

21 3. *The Commission may adopt regulations requiring each*
22 *provider of new electric resources to submit to the Commission*
23 *such information as the Commission determines is necessary to*
24 *ensure that:*

25 (a) *Each provider of new electric resources has sufficient*
26 *energy, capacity and ancillary services, or the ability to obtain*
27 *energy, capacity and ancillary services, to satisfy the demand of*
28 *each eligible customer purchasing energy, capacity or ancillary*
29 *services from the provider;*

30 (b) *Eligible customers served by a provider of new electric*
31 *resources will receive safe and reliable service from the provider;*
32 *and*

33 (c) *Each provider of new electric resources complies with this*
34 *chapter and any other laws of this State applicable to each*
35 *provider.*

36 **Sec. 10. 1.** *The Commission shall by regulation establish a*
37 *procedure for an eligible customer who is purchasing energy,*
38 *capacity or ancillary services from a provider of new electric*
39 *resources to apply to the Commission to purchase bundled electric*
40 *service from an electric utility. The Commission may, as it deems*
41 *necessary and appropriate to prevent harm to the customers of an*
42 *electric utility:*

43 (a) *Establish a limit on the number of times an eligible*
44 *customer may be approved to purchase energy, capacity or*
45 *ancillary services from a provider of new electric resources; and*



1 *(b) Establish limitations on the use of the tariffs approved by*
2 *the Commission pursuant to NRS 704B.330.*

3 *2. If the Commission approves an application submitted*
4 *pursuant to the regulations required to be adopted by subsection 1,*
5 *the Commission shall order such terms and conditions as the*
6 *Commission deems necessary and appropriate to ensure that the*
7 *purchase of bundled electric service from an electric utility does*
8 *not harm the existing customers of the electric utility.*

9 **Sec. 11.** NRS 704B.010 is hereby amended to read as follows:

10 704B.010 As used in this chapter, unless the context otherwise
11 requires, the words and terms defined in NRS 704B.020 to
12 704B.140, inclusive, *and section 8 of this act* have the meanings
13 ascribed to them in those sections.

14 **Sec. 12.** NRS 704B.080 is hereby amended to read as follows:

15 704B.080 “Eligible customer” means an end-use customer
16 which is:

17 1. A nongovernmental commercial or industrial end-use
18 customer that ~~has~~ :

19 *(a) Was an end-use customer of an electric utility at any time*
20 *before the effective date of this act; and*

21 *(b) Has* an average annual load of 1 megawatt or more in the
22 service territory of an electric utility.

23 2. A governmental entity, including, without limitation, a
24 governmental entity providing educational or health care services,
25 that:

26 *(a) Was an end-use customer of an electric utility at any time*
27 *before the effective date of this act;*

28 *(b) Performs its functions using one or more facilities which are*
29 *operated under a common budget and common control; and*

30 ~~(b)~~ *(c) Has* an average annual load of 1 megawatt or more in
31 the service territory of an electric utility.

32 *3. A governmental entity, including, without limitation, a*
33 *governmental entity providing educational or health care services,*
34 *that:*

35 *(a) Was not an end-use customer of an electric utility at any*
36 *time before the effective date of this act;*

37 *(b) Performs its functions using one or more facilities which*
38 *are operated under a common budget and common control; and*

39 *(c) Would have an average annual load of 1 megawatt or more*
40 *in the service territory of an electric utility.*

41 *4. A nongovernmental commercial or industrial end-use*
42 *customer that:*

43 *(a) Was not an end-use customer of an electric utility at any*
44 *time before the effective date of this act; and*



1 (b) *Would have an average annual load of 1 megawatt or more*
2 *in the service territory of an electric utility.*

3 **Sec. 13.** NRS 704B.110 is hereby amended to read as follows:

4 704B.110 “New electric resource” means ~~[-]~~:

5 ~~—1. The~~ *the* energy, capacity or ancillary services and any
6 increased or additional energy, capacity or ancillary services which
7 are ~~[-]~~ *able to be delivered to an eligible customer and are made*
8 *available:*

9 ~~[(a) Made available from a]~~

10 1. *From an identifiable* generation asset that is not owned by
11 an electric utility or is not subject to contractual commitments to an
12 electric utility that make the energy, capacity or ancillary services
13 from the generation asset unavailable for purchase by an eligible
14 customer; ~~and~~

15 ~~—(b) Able to be delivered to an eligible customer.] or~~

16 2. ~~[Any increased energy, capacity or ancillary services made~~
17 ~~available from a generation asset pursuant to an agreement~~
18 ~~described in NRS 704B.260.]~~ *By way of market purchases through*
19 *a provider of new electric resources.*

20 **Sec. 14.** NRS 704B.170 is hereby amended to read as follows:

21 704B.170 1. The provisions of this chapter do not alter,
22 diminish or otherwise affect any rights or obligations arising under
23 any contract which requires an electric utility to purchase energy,
24 capacity or ancillary services from another party . ~~and which exists~~
25 ~~on July 17, 2001.]~~

26 2. Each electric utility or its assignee shall comply with the
27 terms of any contract which requires the electric utility or its
28 assignee to purchase energy, capacity or ancillary services from
29 another party . ~~and which exists on July 17, 2001.]~~

30 **Sec. 15.** NRS 704B.210 is hereby amended to read as follows:

31 704B.210 The Commission shall, not later than 2 business days
32 after receiving a request in writing from the Legislative
33 Commission, submit to the Legislative Commission a written report
34 which summarizes for the period requested by the Legislative
35 Commission:

36 1. Each application which was filed with the Commission
37 pursuant to the provisions of this chapter and which requested
38 approval of a proposed transaction between an eligible customer and
39 a provider of new electric resources;

40 2. The *public* information that the eligible customer included
41 with the application;

42 3. The findings of the Commission concerning the effect of the
43 proposed transaction on the public interest; and

44 4. Whether the Commission approved the application and, if
45 so, the effective date of the proposed transaction, the terms and



1 conditions of the proposed transaction, and the terms, conditions and
2 payments ordered by the Commission.

3 **Sec. 16.** NRS 704B.300 is hereby amended to read as follows:

4 704B.300 1. Except as otherwise provided in this section, a
5 provider of new electric resources may sell energy, capacity or
6 ancillary services to one or more eligible customers if ~~[]~~ *the*
7 *provider holds a valid license and:*

8 (a) The eligible customers have been approved to purchase
9 energy, capacity and ancillary services from the provider pursuant to
10 the provisions of NRS 704B.310 ; ~~[and 704B.320;]~~ or

11 (b) The transaction complies with the provisions of
12 NRS 704B.325.

13 2. A provider of new electric resources shall not sell energy,
14 capacity or ancillary services to an eligible customer if the
15 transaction violates the provisions of this chapter.

16 3. A provider of new electric resources that sells energy,
17 capacity or ancillary services to an eligible customer pursuant to the
18 provisions of this chapter:

19 (a) Does not become and shall not be deemed to be a public
20 utility solely because of that transaction; and

21 (b) ~~[Does not become and shall not be deemed to be]~~ *Becomes*
22 subject to the jurisdiction of the Commission ~~[except as otherwise~~
23 ~~provided in this chapter or by specific statute.]~~ *only for the*
24 *purposes of this chapter and NRS 704.033, 704.035 and 704.7801*
25 *to 704.7828, inclusive.*

26 4. If a provider of new electric resources is not a public utility
27 in this state and is not otherwise authorized by the provisions of a
28 specific statute to sell energy, capacity or ancillary services at retail
29 in this state, the provider shall not sell energy, capacity or ancillary
30 services at retail in this state to a person or entity that is not an
31 eligible customer.

32 **Sec. 17.** NRS 704B.310 is hereby amended to read as follows:

33 704B.310 1. An eligible customer ~~[that is purchasing bundled~~
34 ~~electric service for all or any part of its load from an electric utility]~~
35 shall not purchase energy, capacity or ancillary services from a
36 provider of new electric resources unless:

37 (a) The eligible customer files an application with the
38 Commission *between January 2 and February 1 of any year and*
39 not later than ~~[180]~~ *280* days before the date on which the eligible
40 customer intends to begin purchasing energy, capacity or ancillary
41 services from the provider ; ~~[, except that the Commission may~~
42 ~~allow the eligible customer to file the application within any shorter~~
43 ~~period that the Commission deems appropriate; and]~~



1 (b) The Commission approves the application by a written order
2 issued in accordance with the provisions of this section ~~and NRS~~
3 ~~704B.320.~~; and

4 (c) *The provider holds a valid license.*

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

7 (a) ~~Information~~ *Specific information* demonstrating that the
8 person filing the application is an eligible customer;

9 (b) Information demonstrating that the proposed provider will
10 provide energy, capacity or ancillary services from a new electric
11 resource;

12 (c) ~~Information~~ *Specific information* concerning the terms and
13 conditions of the proposed transaction that is necessary for the
14 Commission to evaluate the impact of the proposed transaction on
15 customers and the public interest, including, without limitation,
16 information concerning the duration of the proposed transaction ,
17 *the point of receipt of the energy, capacity or ancillary services* and
18 the amount of energy, capacity or ancillary services to be purchased
19 from the provider; ~~and~~

20 (d) *Specific information identifying transmission requirements*
21 *associated with the proposed transaction and the extent to which*
22 *the proposed transaction requires transmission import capacity;*
23 *and*

24 (e) Any other information required pursuant to the regulations
25 adopted by the Commission.

26 3. ~~Except as otherwise provided in NRS 704B.320, the~~ *The*
27 Commission shall not require the eligible customer or provider to
28 disclose:

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

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

33 4. The Commission shall provide public notice of the
34 application of the eligible customer and an opportunity for a hearing
35 on the application in a manner that is consistent with the provisions
36 of NRS 703.320 and the regulations adopted by the Commission.

37 5. The Commission shall *not* approve the application of the
38 eligible customer unless the Commission finds that the proposed
39 transaction:

40 (a) Will be ~~contrary to~~ *in* the public interest; ~~for~~
41 ~~—(b) Does not comply with the provisions of NRS 704B.320, if~~
42 ~~those provisions apply to the proposed transaction.] and~~

43 (b) *Will not cause the total amount of energy and capacity that*
44 *eligible customers purchase from providers of new electric*
45 *resources through transactions approved by the Commission*



1 *pursuant to an application submitted pursuant to this section on or*
2 *after May 16, 2019, to exceed an annual limit set forth in a plan*
3 *filed with the Commission pursuant to NRS 704.741 and accepted*
4 *by the Commission pursuant to NRS 704.751.*

5 6. In determining whether the proposed transaction will be
6 ~~contrary to~~ *in* the public interest, the Commission shall consider,
7 without limitation:

8 (a) Whether the electric utility that has been providing electric
9 service to the eligible customer will ~~be burdened by~~ *experience*
10 increased costs as a result of the proposed transaction ~~for whether~~ ;

11 (b) *Whether* any remaining customer of the electric utility will
12 pay increased costs for electric service *or forgo the benefit of a*
13 *reduction of costs for electric service* as a result of the proposed
14 transaction; *and*

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

18 ~~—(c) Whether the proposed transaction will add energy, capacity~~
19 ~~or ancillary services to the supply in this State.]~~

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

22 (a) The eligible customer shall not begin purchasing energy,
23 capacity or ancillary services from the provider pursuant to the
24 proposed transaction sooner than ~~180~~ *280* days after the date on
25 which the application was filed, unless the Commission allows the
26 eligible customer to begin purchasing energy, capacity or ancillary
27 services from the provider at an earlier date; and

28 (b) The Commission shall order such terms, conditions and
29 payments as the Commission deems necessary and appropriate to
30 ensure that the proposed transaction will ~~not~~ be ~~contrary to~~ *in*
31 the public interest. ~~Such~~ *Except as otherwise provided in subsection*
32 *8, such* terms, conditions and payments:

33 (1) Must be fair and nondiscriminatory as between the
34 eligible customer and the remaining customers of the electric utility
35 ~~and~~ , *except that the terms, conditions and payments must*
36 *assign all identifiable but unquantifiable risk to the eligible*
37 *customer;*

38 (2) Must include, without limitation:

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 , *or the provider of*
43 *new electric resources, as applicable,* of the annual assessment and
44 any other tax, fee or assessment required by NRS 704B.360 ~~;~~ ;



1 (3) *Must establish payments calculated in a manner that*
2 *provides the eligible customer with only its load-ratio share of the*
3 *benefits associated with forecasted load growth if load growth is*
4 *utilized to mitigate the impact of the eligible customer's proposed*
5 *transaction; and*

6 (4) *Must ensure that the eligible customer pays its load-*
7 *ratio share of the costs associated with the electric utility's*
8 *obligations that were incurred as deviations from least-cost*
9 *resource planning pursuant to the laws of this State including,*
10 *without limitation, costs incurred to satisfy the requirements of*
11 *NRS 704.7821 and implement the provisions of NRS 701B.240,*
12 *701B.336, 701B.580, 701B.670, 701B.820, 702.160, 704.773,*
13 *704.7827, 704.7836, 704.785, and Senate Bill No. 329 and*
14 *Assembly Bill No. 465 of the 2019 Legislative Session.*

15 8. *Eligible customers identified in subsection 3 or 4 of NRS*
16 *704B.080 are required to pay only those costs, fees, charges or*
17 *rates which apply to current and ongoing legislatively mandated*
18 *public policy programs, as determined by the Commission.*

19 9. If the Commission does not enter a final order on the
20 application of the eligible customer within ~~150~~ 210 days after the
21 date on which the application was filed with the Commission ~~[-~~
22 ~~-(a) The]~~, *the* application shall be deemed to be ~~[approved]~~
23 *denied* by the Commission. ~~[- and~~

24 ~~-(b) The eligible customer may begin purchasing energy,~~
25 ~~capacity or ancillary services from the provider pursuant to the~~
26 ~~proposed transaction.]~~

27 **Sec. 18.** NRS 704B.325 is hereby amended to read as follows:

28 704B.325 1. An eligible customer that is purchasing energy,
29 capacity or ancillary services from a provider of new electric
30 resources may purchase energy, capacity or ancillary services from
31 an alternative provider without obtaining the approval of the
32 Commission if ~~[the]~~:

33 (a) *The* terms and conditions of the transaction with the
34 alternative provider, other than the price of the energy, capacity or
35 ancillary services, conform to the terms and conditions of the
36 transaction that was originally approved by the Commission with
37 respect to the eligible customer ~~[-]~~, *including, without limitation,*
38 *any terms and conditions, other than the price of the energy,*
39 *capacity or ancillary services, that were approved by the*
40 *Commission to address the factors considered by the Commission*
41 *pursuant to subsection 6 of NRS 704B.310; and*

42 (b) *The alternative provider holds a license.*

43 2. If any terms and conditions of the transaction with the
44 alternative provider, other than the price of the energy, capacity or
45 ancillary services, do not conform to the terms and conditions of the



1 transaction that was originally approved by the Commission with
2 respect to the eligible customer, the eligible customer must obtain
3 approval from the Commission before those nonconforming terms
4 and conditions are enforceable.

5 3. If the eligible customer files a request with the Commission
6 for approval of any nonconforming terms and conditions, the
7 Commission shall review and make a determination concerning the
8 request on an expedited basis.

9 4. Notwithstanding any specific statute to the contrary,
10 information concerning any terms and conditions of the transaction
11 with the alternative provider that the Commission determines are
12 commercially sensitive:

13 (a) Must not be disclosed by the Commission except to the
14 Regulatory Operations Staff of the Commission, the Consumer's
15 Advocate, the staff of the Consumer's Advocate and the affected
16 electric utility for the purposes of carrying out the provisions of this
17 section; and

18 (b) Except as otherwise provided in NRS 239.0115, shall be
19 deemed to be confidential for all other purposes, and the
20 Commission shall take such actions as are necessary to protect the
21 confidentiality of such information.

22 **Sec. 19.** (Deleted by amendment.)

23 **Sec. 20.** NRS 704B.340 is hereby amended to read as follows:

24 704B.340 1. A provider of new electric resources shall not
25 sell energy, capacity or ancillary services to an eligible customer
26 unless the customer has a time-of-use meter installed at the point of
27 delivery of energy to the eligible customer.

28 2. *The Commission shall establish the date by which an*
29 *electric utility must ensure that metering equipment is installed*
30 *and operational at the point of delivery of energy to the eligible*
31 *customer.*

32 3. An electric utility shall install a time-of-use meter at each
33 point of delivery of energy to the eligible customer if the eligible
34 customer does not have a time-of-use meter at that point of delivery.
35 If the eligible customer is:

36 (a) A nongovernmental commercial or industrial end-use
37 customer, the eligible customer or the provider shall pay all costs for
38 the time-of-use meter and for installation of the time-of-use meter
39 by the electric utility.

40 (b) A governmental entity, the provider shall pay all costs for
41 the time-of-use meter and for installation of the time-of-use meter
42 by the electric utility.

43 ~~3.~~ 4. Not more than one person or entity may sell the energy
44 that is delivered to an eligible customer through any one time-of-use
45 meter.



1 ~~[4.]~~ 5. The provisions of this section do not prohibit:

2 (a) An eligible customer from having more than one time-of-use
3 meter installed for the same service location; or

4 (b) An eligible customer from installing any other meter or
5 equipment that is necessary or appropriate to the transaction with
6 the provider, if such a meter or equipment is otherwise consistent
7 with system reliability.

8 **Sec. 21.** NRS 704B.360 is hereby amended to read as follows:

9 704B.360 1. If the Commission approves an application that
10 is filed pursuant to NRS 704B.310 or a request that is filed pursuant
11 to NRS 704B.325, ~~[the Commission shall order]~~ the eligible
12 customer ~~[to:]~~ *or the provider of new electric resources, as*
13 *applicable, shall:*

14 (a) Pay its share of the annual assessment levied pursuant to
15 NRS 704.033 to the Commission and the Bureau of Consumer
16 Protection in the Office of the Attorney General;

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

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

22 2. Each person or entity that is responsible for billing an
23 eligible customer shall ensure that the amount which the eligible
24 customer must pay pursuant to paragraph (b) of subsection 1 is set
25 forth as a separate item or entry on each bill submitted to the eligible
26 customer.

27 3. If an eligible customer to whom an order is issued pursuant
28 to subsection 1 thereafter purchases energy, capacity or ancillary
29 services from an alternative provider pursuant to NRS 704B.325
30 without obtaining the approval of the Commission, the order issued
31 pursuant to subsection 1 continues to apply to the eligible customer.

32 4. Upon petition by a governmental entity to which a tax, fee or
33 assessment must be remitted pursuant to this section ~~[:]~~ *or the*
34 *Regulatory Operations Staff of the Commission*, the Commission
35 may limit, suspend or revoke any order issued to an eligible
36 customer by the Commission pursuant to NRS 704B.310 ~~[and~~
37 ~~704B.320]~~ *, limit, suspend or revoke any license issued to a*
38 *provider of new electric resources pursuant to section 9 of this act,*
39 *or impose an administrative fine pursuant to NRS 703.380, or both*
40 *limit, suspend or revoke any order or license and impose an*
41 *administrative fine pursuant to NRS 703.380*, if the Commission,
42 after providing an appropriate notice and hearing, determines that
43 the eligible customer *or provider of new electric resources,*
44 *as applicable*, has failed to pay ~~[the]~~ *any* tax, fee, ~~[or]~~ assessment



1 **⚡ cost or rate required to be paid or remitted pursuant to**
2 **subsection 1.**

3 **Sec. 22.** NRS 239.010 is hereby amended to read as follows:

4 239.010 1. Except as otherwise provided in this section and
5 NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293,
6 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170,
7 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113,
8 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200,
9 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345,
10 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880,
11 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280,
12 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140,
13 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130,
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24 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030,
25 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560,
26 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910,
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31 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379,
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39 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698,
40 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535,
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6 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363,
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13 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368,
14 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055,
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17 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190,
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22 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033,
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30 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420,
31 693A.480, 693A.615, 696B.550, 696C.120, 703.196, ~~704B.320,~~
32 704B.325, 706.1725, 706A.230, 710.159, 711.600, sections 35, 38
33 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of
34 chapter 391, Statutes of Nevada 2013 and unless otherwise declared
35 by law to be confidential, all public books and public records of a
36 governmental entity must be open at all times during office hours to
37 inspection by any person, and may be fully copied or an abstract or
38 memorandum may be prepared from those public books and public
39 records. Any such copies, abstracts or memoranda may be used to
40 supply the general public with copies, abstracts or memoranda of the
41 records or may be used in any other way to the advantage of the
42 governmental entity or of the general public. This section does not
43 supersede or in any manner affect the federal laws governing
44 copyrights or enlarge, diminish or affect in any other manner the



1 rights of a person in any written book or record which is
2 copyrighted pursuant to federal law.

3 2. A governmental entity may not reject a book or record
4 which is copyrighted solely because it is copyrighted.

5 3. A governmental entity that has legal custody or control of a
6 public book or record shall not deny a request made pursuant to
7 subsection 1 to inspect or copy or receive a copy of a public book or
8 record on the basis that the requested public book or record contains
9 information that is confidential if the governmental entity can
10 redact, delete, conceal or separate the confidential information from
11 the information included in the public book or record that is not
12 otherwise confidential.

13 4. A person may request a copy of a public record in any
14 medium in which the public record is readily available. An officer,
15 employee or agent of a governmental entity who has legal custody
16 or control of a public record:

17 (a) Shall not refuse to provide a copy of that public record in a
18 readily available medium because the officer, employee or agent has
19 already prepared or would prefer to provide the copy in a different
20 medium.

21 (b) Except as otherwise provided in NRS 239.030, shall, upon
22 request, prepare the copy of the public record and shall not require
23 the person who has requested the copy to prepare the copy himself
24 or herself.

25 **Sec. 23.** NRS 239C.270 is hereby amended to read as follows:

26 239C.270 1. Each utility *and each provider of new electric*
27 *resources* shall:

28 (a) Conduct a vulnerability assessment in accordance with the
29 requirements of the federal and regional agencies that regulate the
30 utility ~~or~~ *or provider*; and

31 (b) Prepare and maintain an emergency response plan in
32 accordance with the requirements of the federal and regional
33 agencies that regulate the utility ~~or~~ *or provider*.

34 2. Each utility shall:

35 (a) As soon as practicable but not later than December 31, 2003,
36 submit its vulnerability assessment and emergency response plan to
37 the Division; and

38 (b) At least once each year thereafter, review its vulnerability
39 assessment and emergency response plan and, as soon as practicable
40 after its review is completed but not later than December 31 of each
41 year, submit the results of its review and any additions or
42 modifications to its emergency response plan to the Division.

43 3. *Each provider of new electric resources shall:*



1 (a) *As soon as practicable but not later than December 31,*
2 *2019, submit its vulnerability assessment and emergency response*
3 *plan to the Division; and*

4 (b) *At least once each year thereafter, review its vulnerability*
5 *assessment and emergency response plan and, as soon as*
6 *practicable after its review is completed but not later than*
7 *December 31 of each year, submit the results of its review and any*
8 *additions or modifications to its emergency response plan to the*
9 *Division.*

10 4. Except as otherwise provided in NRS 239.0115, each
11 vulnerability assessment and emergency response plan of a utility *or*
12 *provider of new electric resources* and any other information
13 concerning a utility *or provider* that is necessary to carry out the
14 provisions of this section is confidential and must be securely
15 maintained by each person or entity that has possession, custody or
16 control of the information.

17 ~~4.~~ 5. Except as otherwise provided in NRS 239C.210, a
18 person shall not disclose such information, except:

19 (a) Upon the lawful order of a court of competent jurisdiction;

20 (b) As is reasonably necessary to carry out the provisions of this
21 section or the operations of the utility ~~or~~ *or provider of new electric*
22 *resources*, as determined by the Division;

23 (c) As is reasonably necessary in the case of an emergency
24 involving public health or safety, as determined by the Division; or

25 (d) Pursuant to the provisions of NRS 239.0115.

26 ~~5.~~ 6. If a person knowingly and unlawfully discloses such
27 information or assists, solicits or conspires with another person to
28 disclose such information, the person is guilty of:

29 (a) A gross misdemeanor; or

30 (b) A category C felony and shall be punished as provided in
31 NRS 193.130 if the person acted with the intent to:

32 (1) Commit, cause, aid, further or conceal, or attempt to
33 commit, cause, aid, further or conceal, any unlawful act involving
34 terrorism or sabotage; or

35 (2) Assist, solicit or conspire with another person to commit,
36 cause, aid, further or conceal any unlawful act involving terrorism
37 or sabotage.

38 7. *As used in this section, "provider of new electric*
39 *resources" has the meaning ascribed to it in NRS 704B.130.*

40 **Sec. 24.** 1. Notwithstanding any other provision of law, an
41 application filed before the effective date of this act pursuant to
42 NRS 704B.310, as that section existed before the effective date of
43 this act, shall be deemed to be denied by the Public Utilities
44 Commission of Nevada unless the application was filed before
45 May 16, 2019.



1 2. The amendatory provisions of this act governing the
2 consideration and disposition by the Public Utilities Commission of
3 Nevada of an application filed pursuant to NRS 704B.310 do not
4 apply to an application filed before May 16, 2019, and the
5 disposition of such an application must be controlled by the
6 applicable statutes as they existed before the effective date of this
7 act.

8 **Sec. 25.** Notwithstanding the provisions of NRS 704B.080, as
9 amended by section 12 of this act, an eligible customer who, before
10 the effective date of this act, was approved to purchase energy,
11 capacity or ancillary services from a provider of new electric
12 resources pursuant to the provisions of NRS 704B.310, as that
13 section existed before the effective date of this act, shall be deemed
14 to be an eligible customer on and after the effective date of this act.

15 **Sec. 26.** 1. Notwithstanding the provisions of NRS
16 704B.300, as amended by section 16 of this act, a provider of new
17 electric resources who, before the effective date of this act, sold
18 energy, capacity or ancillary services to one or more eligible
19 customers that were approved to purchase energy, capacity or
20 ancillary services from the provider pursuant to NRS 704B.310, as
21 that section existed before the effective date of this act, must be
22 issued a license by the Commission authorizing the provider of new
23 electric resources to sell energy, capacity or ancillary services to that
24 eligible customer if, not later than 30 days after a date established by
25 the Commission by regulation, the provider submits to the
26 Commission an application for a license pursuant to section 9 of this
27 act.

28 2. Notwithstanding the provisions of NRS 704B.310, as
29 amended by section 17 of this act, an eligible customer who, before
30 the effective date of this act, was approved to purchase energy,
31 capacity or ancillary services from a provider of new electric
32 resources pursuant to the provisions of NRS 704B.310, as that
33 section existed before the effective date of this act, may, on and
34 after the effective date of this act, purchase energy, capacity and
35 ancillary services from that provider if, not later than 30 days after a
36 date established by the Commission by regulation, the provider
37 submits to the Commission an application for a license pursuant to
38 section 9 of this act.

39 3. Notwithstanding the provisions of NRS 704B.310, as
40 amended by section 17 of this act, an eligible customer who
41 submitted an application pursuant to NRS 704B.310 before May 16,
42 2019, and was approved to purchase energy, capacity or ancillary
43 services from a provider of new electric resources pursuant to the
44 provisions of NRS 704B.310, as that section existed before the
45 effective date of this act, may, on or after the date of the order



1 authorizing the eligible customer to purchase energy, capacity or
2 ancillary services from a provider of new electric resources,
3 purchase such services from that provider if, not later than 30 days
4 after a date established by the commission by regulation, the
5 provider submits to the Commission an application for a license
6 pursuant to section 9 of this act.

7 **Sec. 27.** NRS 704B.060, 704B.070, 704B.260 and 704B.320
8 are hereby repealed.

9 **Sec. 28.** This act becomes effective upon passage and
10 approval.

TEXT OF REPEALED SECTIONS

704B.060 “Electric utility that primarily serves densely populated counties” defined. “Electric utility that primarily serves densely populated counties” means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this state from customers located in counties whose population is 700,000 or more than it does from customers located in counties whose population is less than 700,000.

704B.070 “Electric utility that primarily serves less densely populated counties” defined. “Electric utility that primarily serves less densely populated counties” means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this state from customers located in counties whose population is less than 700,000 than it does from customers located in counties whose population is 700,000 or more.

704B.260 Electric utilities may enter into certain agreements relating to generation assets; increased energy, capacity or ancillary services deemed new electric resource; ownership and use of new electric resource; limitations; duties and restrictions imposed on Commission.

1. Except as otherwise provided in this section, an electric utility may, at its discretion, enter into agreements relating to its generation assets and the energy, capacity or ancillary services provided by its generation assets with one or more other persons who are not electric utilities. Such agreements, without limitation:

(a) May include agreements to construct or install a new generation asset on real property that is adjacent to an existing generation asset owned by the electric utility; and



(b) May provide for the sharing of available common facilities with the existing generation asset or the reengineering, repowering or expansion of the existing generation asset to generate energy more efficiently and at a lower cost and to make more energy available to customers in this state.

2. Any increased energy, capacity or ancillary services made available from a new generation asset or an existing generation asset pursuant to an agreement described in subsection 1 shall be deemed to be a new electric resource that may be:

(a) Owned by the parties to the agreement who are not electric utilities; and

(b) Used or consumed by such parties for their own purposes, sold at wholesale by such parties or sold by such parties to one or more eligible customers pursuant to the provisions of this chapter.

3. A transaction undertaken pursuant to an agreement described in subsection 1:

(a) Must not impair system reliability or the ability of the electric utility to provide electric service to its customers; and

(b) Must not violate the provisions of NRS 704.7561 to 704.7595, inclusive.

4. The provisions of this section do not exempt any party to an agreement described in subsection 1 from any applicable statutory or regulatory requirements relating to siting, construction and operation of a generation asset.

5. The Commission shall encourage the development of new electric resources and shall not exercise its regulatory authority in a manner that unnecessarily or unreasonably restricts, conditions or discourages any agreement described in subsection 1 that is likely to result in increased energy, capacity or ancillary services from a generation asset or improved or more efficient operation or management of a generation asset.

704B.320 Conditions and limitations for certain proposed transactions; requirements for certain eligible customers; limited disclosure of certain information; duties of Commission; compliance with portfolio standard.

1. For eligible customers whose loads are in the service territory of an electric utility that primarily serves densely populated counties, the aggregate amount of energy that all such eligible customers purchase from providers of new electric resources before July 1, 2003, must not exceed 50 percent of the difference between the existing supply of energy generated in this State that is available to the electric utility and the existing demand for energy in this State that is consumed by the customers of the electric utility, as determined by the Commission.



2. An eligible customer that is a nongovernmental commercial or industrial end-use customer whose load is in the service territory of an electric utility that primarily serves densely populated counties shall not purchase energy, capacity or ancillary services from a provider of new electric resources unless, as part of the proposed transaction, the eligible customer agrees to:

(a) Contract with the provider to purchase:

(1) An additional amount of energy which is equal to 10 percent of the total amount of energy that the eligible customer is purchasing for its own use under the proposed transaction and which is purchased at the same price, terms and conditions as the energy purchased by the eligible customer for its own use; and

(2) The capacity and ancillary services associated with the additional amount of energy at the same price, terms and conditions as the capacity and ancillary services purchased by the eligible customer for its own use; and

(b) Offers to assign the rights to the contract to the electric utility for use by the remaining customers of the electric utility.

3. If an eligible customer is subject to the provisions of subsection 2, the eligible customer shall include with its application filed pursuant to NRS 704B.310 all information concerning the contract offered to the electric utility that is necessary for the Commission to determine whether it is in the best interest of the remaining customers of the electric utility for the electric utility to accept the rights to the contract. Such information must include, without limitation, the amount of the energy and capacity to be purchased under the contract, the price of the energy, capacity and ancillary services and the duration of the contract.

4. Notwithstanding any specific statute to the contrary, information concerning the price of the energy, capacity and ancillary services and any other terms or conditions of the contract that the Commission determines are commercially sensitive:

(a) Must not be disclosed by the Commission except to the Regulatory Operations Staff of the Commission, the Consumer's Advocate, the staff of the Consumer's Advocate and the electric utility for the purposes of carrying out the provisions of this section; and

(b) Except as otherwise provided in NRS 239.0115, shall be deemed to be confidential for all other purposes, and the Commission shall take such actions as are necessary to protect the confidentiality of such information.

5. If the Commission determines that the contract:

(a) Is not in the best interest of the remaining customers of the electric utility, the electric utility shall not accept the rights to



the contract, and the eligible customer is entitled to all rights to the contract.

(b) Is in the best interest of the remaining customers of the electric utility, the electric utility shall accept the rights to the contract and the eligible customer shall assign all rights to the contract to the electric utility. A contract that is assigned to the electric utility pursuant to this paragraph shall be deemed to be an approved part of the resource plan of the electric utility and a prudent investment, and the electric utility may recover all costs for the energy, capacity and ancillary services acquired pursuant to the contract. To the extent practicable, the Commission shall take actions to ensure that the electric utility uses the energy, capacity and ancillary services acquired pursuant to each such contract only for the benefit of the remaining customers of the electric utility that are not eligible customers, with a preference for the remaining customers of the electric utility that are residential customers with small loads.

6. The provisions of this section do not exempt the electric utility, in whole or in part, from the requirements imposed on the electric utility pursuant to NRS 704.7801 to 704.7828, inclusive, to comply with its portfolio standard. The Commission shall not take any actions pursuant to this section that conflict with or diminish those requirements.

