

Assembly Bill No. 387–Assemblymen Conklin, Kirkpatrick,  
Leslie, Buckley, Ocegüera; and Bobzien

CHAPTER.....

AN ACT relating to public utilities; requiring public utilities to submit certain information regarding renewable energy to the Public Utilities Commission of Nevada; authorizing the Commission to approve construction or expansion of transmission facilities based on an expectation of future renewable energy development; revising provisions requiring certain providers of electric service to comply with a portfolio standard for renewable energy; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

**Section 6** of this bill requires a utility to submit with its plan to increase its supply of electricity or decrease the demands made by its customers a description of specific geographic zones where renewable energy could be used to generate electricity but transmission facilities are inadequate to deliver such electricity to customers.

**Section 7** of this bill requires the Public Utilities Commission of Nevada to consider the level of financial commitment from developers of renewable energy projects when evaluating a plan submitted pursuant to NRS 704.741.

**Section 8** of this bill allows the Commission to accept a transmission plan if it would help the utility to meet the portfolio standard defined in NRS 704.7805.

**Section 4.3** of this bill requires the Commission to report to the Director of the Legislative Counsel Bureau by February 15 of each odd-numbered year concerning any transmission plan proposed, accepted or made known to the Commission since the last report.

**Section 9** of this bill revises the amount of electricity that a provider must generate, acquire or save to satisfy the portfolio standard from 2025 onward.

**Section 9** also revises the amount of electricity that must be generated or acquired from solar energy renewable systems to satisfy the portfolio standard from 2015 onward. Additionally, **section 9** exempts providers of new electric resources from the portfolio standard that is applicable to other providers of electric service.

**Section 4.7** of this bill provides that the portfolio standard for electricity sold by providers of new electric resources is the portfolio standard set forth in NRS 704.7821 which is effective on the date on which the Commission issues an order approving an application or request submitted by the provider of new electric resources.

**Section 11** of this bill requires the plan described in **section 6** to be filed not later than January 1, 2011. **Section 12** of this bill requires the Commission to adopt regulations designating renewable energy zones not later than January 1, 2010.

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

**Section 1.** NRS 701B.290 is hereby amended to read as follows:

701B.290 1. After a participant installs a solar energy system included in the Solar Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 ~~and~~ *and section 4.7 of this act.*

2. The Commission shall designate the portfolio energy credits issued pursuant to this section as portfolio energy credits generated, acquired or saved from solar renewable energy systems for the purposes of the portfolio standard.

3. All portfolio energy credits issued for a solar energy system installed pursuant to the Solar Program must be assigned to and become the property of the utility administering the Program.

**Sec. 2.** NRS 701B.640 is hereby amended to read as follows:

701B.640 1. After a participant installs a wind energy system included in the Wind Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 *and section 4.7 of this act* equal to the actual or estimated kilowatt-hour production of the wind energy system.

2. All portfolio energy credits issued for a wind energy system installed pursuant to the Wind Demonstration Program must be assigned to and become the property of the utility administering the Program.

**Sec. 3.** NRS 701B.870 is hereby amended to read as follows:

701B.870 1. After a participant installs a waterpower energy system included in the Waterpower Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 *and section 4.7 of this act* equal to the actual or estimated kilowatt-hour production of the waterpower energy system of the participant.

2. All portfolio energy credits issued for a waterpower energy system installed pursuant to the Waterpower Demonstration Program are assigned to and become the property of the utility administering the Program.

**Sec. 4.** Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 4.3 and 4.7 of this act.

**Sec. 4.3.** *On or before February 15 of each odd-numbered year, the Commission shall review, approve and submit to the*



*Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling all information about any transmission plan proposed by, adopted by or made known to the Commission since the last report.*

**Sec. 4.7.** *1. If the Commission issues an order approving an application that is filed pursuant to NRS 704B.310 or a request that is filed pursuant to NRS 704B.325 regarding a provider of new electric resources and an eligible customer, the Commission must establish in the order a portfolio standard applicable to the electricity sold by the provider of new electric resources to the eligible customer in accordance with the order. The portfolio standard must require the provider of new electric resources to generate, acquire or save electricity from portfolio energy systems or efficiency measures in the amounts described in the portfolio standard set forth in NRS 704.7821 which is effective on the date on which the order approving the application or request is approved.*

*2. Of the total amount of electricity that a provider of new electric resources is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures.*

*3. If, for the benefit of one or more eligible customers, the eligible customer of a provider of new electric resources has paid for or directly reimbursed, in whole or in part, the costs of the acquisition or installation of a solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider of new electric resources generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.*

*4. As used in this section:*

*(a) "Eligible customer" has the meaning ascribed to it in NRS 704B.080.*

*(b) "Provider of new electric resources" has the meaning ascribed to it in NRS 704B.130.*

**Sec. 5.** NRS 704.736 is hereby amended to read as follows:

704.736 The application of NRS 704.736 to 704.751, inclusive, **and section 4.3 of this act** is limited to any public utility in the business of supplying electricity which has an annual operating revenue in this state of \$2,500,000 or more.



**Sec. 6.** NRS 704.741 is hereby amended to read as follows:

704.741 1. A utility which supplies electricity in this State shall, on or before July 1 of every third year, in the manner specified by the Commission, submit a plan to increase its supply of electricity or decrease the demands made on its system by its customers to the Commission.

2. The Commission shall, by regulation ~~[-prescribe]~~ :

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

~~[(a)]~~ (1) Forecast the future demands; and

~~[(b)]~~ (2) Determine the best combination of sources of supply to meet the demands or the best method to reduce them ~~[-]~~; and

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

3. The Commission shall require the utility to include in its plan an energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel. The energy efficiency program must include, without limitation, the use of new solar thermal energy sources.

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

5. *As used in this section, “renewable energy zones” means specific geographic zones where renewable energy resources are sufficient to develop generation capacity and where transmission constrains the delivery of electricity from those resources to customers.*

**Sec. 7.** NRS 704.746 is hereby amended to read as follows:

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

2. At the hearing any interested person may make comments to the Commission regarding the contents and adequacy of the plan.

3. After the hearing, the Commission shall determine whether:

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

(b) The plan identifies and takes into account any present and projected reductions in the demand for energy that may result from measures to improve energy efficiency in the industrial,



commercial, residential and energy producing sectors of the area being served.

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

- (1) Improvements in energy efficiency;
- (2) Pooling of power;
- (3) Purchases of power from neighboring states or countries;
- (4) Facilities that operate on solar or geothermal energy or wind;
- (5) Facilities that operate on the principle of cogeneration or hydrogeneration; ~~and~~
- (6) Other generation facilities ~~and~~; *and*
- (7) *Other transmission facilities.*

4. The Commission may give preference to the measures and sources of supply set forth in paragraph (c) of subsection 3 that:

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

(b) Are consistent with the provisions of this section; and

(c) Provide levels of service that are adequate and reliable.

5. The Commission shall:

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

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

**6. *The Commission shall:***

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

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

**Sec. 8.** NRS 704.751 is hereby amended to read as follows:

704.751 1. After a utility has filed the plan required pursuant to NRS 704.741, the Commission shall issue an order accepting the plan as filed or specifying any portions of the plan it deems to be inadequate:

(a) Within 135 days for any portion of the plan relating to the energy supply plan for the utility for the 3 years covered by the plan; and



(b) Within 180 days for all portions of the plan not described in paragraph (a).

2. If a utility files an amendment to a plan, the Commission shall issue an order accepting the amendment as filed or specifying any portions of the amendment it deems to be inadequate within 135 days of the filing of the amendment.

3. All prudent and reasonable expenditures made to develop the utility's plan, including environmental, engineering and other studies, must be recovered from the rates charged to the utility's customers.

*4. The Commission may accept a transmission plan submitted pursuant to subsection 4 of NRS 704.741 for a renewable energy zone if the Commission determines that the construction or expansion of transmission facilities would facilitate the utility meeting the portfolio standard, as defined in NRS 704.7805.*

*5. The Commission shall adopt regulations establishing the criteria for determining the adequacy of a transmission plan submitted pursuant to subsection 4 of NRS 704.741.*

**Sec. 8.2.** NRS 704.775 is hereby amended to read as follows:

704.775 1. The billing period for net metering must be a monthly period.

2. The net energy measurement must be calculated in the following manner:

(a) The utility shall measure, in kilowatt-hours, the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(b) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net electricity supplied by the utility.

(c) If the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period:

(1) Neither the utility nor the customer-generator is entitled to compensation for the electricity provided to the other during the billing period.

(2) The excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to the kilowatt-hours generated by the customer-generator in that billing period. If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the



subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods.

(3) Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if:

(I) The net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities;

(II) The customer-generator ceases to be a customer of the utility at the premises served by the net metering system; or

(III) The customer-generator transfers the net metering system to another person.

(4) The value of the excess electricity must not be used to reduce any other fee or charge imposed by the utility.

3. If the cost of purchasing and installing a net metering system was paid for:

(a) In whole or in part by a utility, the electricity generated by the net metering system shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive ~~§~~, **and section 4.7 of this act.**

(b) Entirely by a customer-generator, the Commission shall issue to the customer-generator portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 **and section 4.7 of this act** equal to the electricity generated by the net metering system.

4. A bill for electrical service is due at the time established pursuant to the terms of the contract between the utility and the customer-generator.

**Sec. 8.4.** NRS 704.7801 is hereby amended to read as follows:

704.7801 As used in NRS 704.7801 to 704.7828, inclusive, **and section 4.7 of this act**, unless the context otherwise requires, the words and terms defined in NRS 704.7802 to 704.7819, inclusive, have the meanings ascribed to them in those sections.

**Sec. 8.6.** NRS 704.7805 is hereby amended to read as follows:

704.7805 "Portfolio standard" means the amount of electricity that a provider must generate, acquire or save from portfolio energy systems or efficiency measures, as established by the Commission pursuant to NRS 704.7821 ~~§~~ **and section 4.7 of this act.**

**Sec. 8.8.** NRS 704.7815 is hereby amended to read as follows:

704.7815 "Renewable energy system" means:

1. A facility or energy system that ~~§~~



~~—(a) Uses~~ *uses* renewable energy or energy from a qualified energy recovery process to generate electricity ~~{}~~ and :

*(a) Uses the electricity that it generates from renewable energy or energy from a qualified recovery process in this State; or*

(b) Transmits or distributes the electricity that it generates from renewable energy or energy from a qualified energy recovery process ~~{via:~~

~~—(1) A power line which is dedicated to the transmission or distribution of electricity generated from renewable energy or energy from a qualified energy recovery process and which is connected to a facility or system owned, operated or controlled by a provider of electric service; or~~

~~—(2) A power line which is shared with not more than one facility or energy system generating electricity from nonrenewable energy and which is connected to a facility or system owned, operated or controlled by a provider of electric service.]~~ *to a provider of electric service for delivery into and use in this State.*

2. A solar energy system that reduces the consumption of electricity or any fossil fuel.

3. A net metering system used by a customer-generator pursuant to NRS 704.766 to 704.775, inclusive.

**Sec. 9.** NRS 704.7821 is hereby amended to read as follows:

704.7821 1. For each provider of electric service, the Commission shall establish a portfolio standard. The portfolio standard must require each provider to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is:

(a) For calendar years 2005 and 2006, not less than 6 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(b) For calendar years 2007 and 2008, not less than 9 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(c) For calendar years 2009 and 2010, not less than 12 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(d) For calendar years 2011 and 2012, not less than 15 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(e) For calendar years 2013 and 2014, not less than 18 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.





(f) For calendar ~~[year]~~ years 2015 ~~[and for each calendar year thereafter,]~~ **through 2019, inclusive**, not less than 20 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

**(g) For calendar years 2020 through 2024, inclusive, not less than 22 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.**

**(h) For calendar year 2025 and for each calendar year thereafter, not less than 25 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.**

2. ~~[Except as otherwise provided in subsection 3, in]~~ **In** addition to the requirements set forth in subsection 1, the portfolio standard for each provider must require that:

(a) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not less than :

**(1) For calendar years 2009 through 2015, inclusive, 5 percent of that amount must be generated or acquired from solar renewable energy systems.**

**(2) For calendar year 2016 and for each calendar year thereafter, 6 percent of that amount must be generated or acquired from solar renewable energy systems.**

(b) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures. If the provider intends to use energy efficiency measures to comply with its portfolio standard during any calendar year, of the total amount of electricity saved from energy efficiency measures for which the provider seeks to obtain portfolio energy credits pursuant to this paragraph, at least 50 percent of that amount must be saved from energy efficiency measures installed at service locations of residential customers of the provider, unless a different percentage is approved by the Commission.

(c) If the provider acquires or saves electricity from a portfolio energy system or efficiency measure pursuant to a renewable energy contract or energy efficiency contract with another party:

(1) The term of the contract must be not less than 10 years, unless the other party agrees to a contract with a shorter term; and

(2) The terms and conditions of the contract must be just and reasonable, as determined by the Commission. If the provider is a



utility provider and the Commission approves the terms and conditions of the contract between the utility provider and the other party, the contract and its terms and conditions shall be deemed to be a prudent investment and the utility provider may recover all just and reasonable costs associated with the contract.

~~3. [The provisions of paragraphs (b) and (c) of subsection 2 do not apply to a provider of new electric resources pursuant to chapter 704B of NRS with respect to its use of an energy efficiency measure that is financed by a customer, or which is a geothermal energy system for the provision of heated water to one or more customers and which reduces the consumption of electricity or any fossil fuel, except that, of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures.~~

~~4.]~~ If, for the benefit of one or more retail customers in this State, the provider ~~[, or the customer of a provider of new electric resources pursuant to chapter 704B of NRS,]~~ has paid for or directly reimbursed, in whole or in part, the costs of the acquisition or installation of a solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

~~[5.]~~ 4. The Commission shall adopt regulations that establish a system of portfolio energy credits that may be used by a provider to comply with its portfolio standard.

~~[6.]~~ 5. Except as otherwise provided in subsection ~~[7.]~~ 6, each provider shall comply with its portfolio standard during each calendar year.

~~[7.]~~ 6. If, for any calendar year, a provider is unable to comply with its portfolio standard through the generation of electricity from its own renewable energy systems or, if applicable, through the use of portfolio energy credits, the provider shall take actions to acquire or save electricity pursuant to one or more renewable energy contracts or energy efficiency contracts. If the Commission determines that, for a calendar year, there is not or will not be a sufficient supply of electricity or a sufficient amount of energy savings made available to the provider pursuant to renewable energy contracts and energy efficiency contracts with just and reasonable terms and conditions, the Commission shall exempt the provider, for



that calendar year, from the remaining requirements of its portfolio standard or from any appropriate portion thereof, as determined by the Commission.

~~[8.]~~ 7. The Commission shall adopt regulations that establish:

(a) Standards for the determination of just and reasonable terms and conditions for the renewable energy contracts and energy efficiency contracts that a provider must enter into to comply with its portfolio standard.

(b) Methods to classify the financial impact of each long-term renewable energy contract and energy efficiency contract as an additional imputed debt of a utility provider. The regulations must allow the utility provider to propose an amount to be added to the cost of the contract, at the time the contract is approved by the Commission, equal to a compensating component in the capital structure of the utility provider. In evaluating any proposal made by a utility provider pursuant to this paragraph, the Commission shall consider the effect that the proposal will have on the rates paid by the retail customers of the utility provider.

*8. Except as otherwise provided in section 4.7 of this act, the provisions of this section do not apply to a provider of new electric resources as defined in NRS 704B.130.*

9. As used in this section:

(a) "Energy efficiency contract" means a contract to attain energy savings from one or more energy efficiency measures owned, operated or controlled by other parties.

(b) "Renewable energy contract" means a contract to acquire electricity from one or more renewable energy systems owned, operated or controlled by other parties.

(c) "Terms and conditions" includes, without limitation, the price that a provider must pay to acquire electricity pursuant to a renewable energy contract or to attain energy savings pursuant to an energy efficiency contract.

**Sec. 9.3.** NRS 704.7822 is hereby amended to read as follows:

704.7822 For the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 ~~[8.]~~ *or section 4.7 of this act*, a provider shall be deemed to have generated or acquired 2.4 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a solar photovoltaic system, if:

1. The system is installed on the premises of a retail customer; and



2. On an annual basis, at least 50 percent of the electricity generated by the system is utilized by the retail customer on that premises.

**Sec. 9.5.** NRS 704.7823 is hereby amended to read as follows:

704.7823 1. Except as otherwise provided in subsection 2, any electricity generated by a provider using any system that involves drawing or creating electricity from tires must be deemed to have not come from a renewable energy system for the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 ***⚡ or section 4.7 of this act.***

2. For the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 ***⚡ or section 4.7 of this act,*** a provider shall be deemed to have generated or acquired 0.7 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a system that utilizes a reverse polymerization process, if:

(a) The system is installed on the premises of a retail customer; and

(b) On an annual basis, at least 50 percent of the electricity generated by the system is utilized by the retail customer on that premises.

3. As used in this section:

(a) "Reverse polymerization process" means a process that generates electricity from a tire that:

(1) Uses microwave reduction; and

(2) Does not involve combustion of the tire.

(b) "Tire" includes any tire for any vehicle or device in, upon or by which any person or property is or may be transported or drawn upon land.

**Sec. 9.7.** NRS 704.7828 is hereby amended to read as follows:

704.7828 1. The Commission shall adopt regulations to carry out and enforce the provisions of NRS 704.7801 to 704.7828, inclusive ***⚡, and section 4.7 of this act.*** The regulations adopted by the Commission may include any enforcement mechanisms which are necessary and reasonable to ensure that each provider of electric service complies with its portfolio standard. Such enforcement mechanisms may include, without limitation, the imposition of administrative fines.

2. ***If a provider exceeds the portfolio standard for any calendar year, the Commission shall authorize the provider to carry forward to subsequent calendar years for the purpose of complying with the portfolio standard for those subsequent calendar years any excess kilowatt-hours of electricity that the***



*provider generates, acquires or saves from portfolio energy systems or efficiency measures.*

3. If a provider does not comply with its portfolio standard for any calendar year and the Commission has not exempted the provider from the requirements of its portfolio standard pursuant to NRS 704.7821 ~~[3]~~ *or section 4.7 of this act*, the Commission ~~[may]~~ :

(a) *Shall require the provider to carry forward to subsequent calendar years the amount of the deficiency in kilowatt-hours of electricity that the provider does not generate, acquire or save from portfolio energy systems or efficiency measures during a calendar year in violation of its portfolio standard; and*

(b) *May* impose an administrative fine against the provider or take other administrative action against the provider, or do both.

~~[3]~~ 4. The Commission may impose an administrative fine against a provider based upon:

(a) Each kilowatt-hour of electricity that the provider does not generate, acquire or save from portfolio energy systems or efficiency measures during a calendar year in violation of its portfolio standard; or

(b) Any other reasonable formula adopted by the Commission.

~~[4]~~ 5. In the aggregate, the administrative fines imposed against a provider for all violations of its portfolio standard for a single calendar year must not exceed the amount which is necessary and reasonable to ensure that the provider complies with its portfolio standard, as determined by the Commission.

~~[5]~~ 6. If the Commission imposes an administrative fine against a utility provider:

(a) The administrative fine is not a cost of service of the utility provider;

(b) The utility provider shall not include any portion of the administrative fine in any application for a rate adjustment or rate increase; and

(c) The Commission shall not allow the utility provider to recover any portion of the administrative fine from its retail customers.

~~[6]~~ 7. All administrative fines imposed and collected pursuant to this section must be deposited in the State General Fund.

**Sec. 10.** NRS 704.873 is hereby amended to read as follows:

704.873 If a public utility that is subject to the provisions of NRS 704.736 to 704.751, inclusive, *and section 4.3 of this act* applies to the Commission for a permit for the construction of a utility facility:



1. The Commission has exclusive jurisdiction with regard to the determination of whether a need exists for the utility facility; and
2. No other permitting entity may consider, in its review of any application for a permit, license or other approval for the construction of the utility facility, whether a need exists for the utility facility.

**Sec. 10.3.** (Deleted by amendment.)

**Sec. 10.5.** NRS 704B.320 is hereby amended to read as follows:

704B.320 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 and his staff 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, *and section 4.7 of this act*, to comply with its portfolio standard. The Commission shall not take any actions pursuant to this section that conflict with or diminish those requirements.

**Sec. 10.7.** (Deleted by amendment.)



**Sec. 11.** Any public utility required to file a plan pursuant to NRS 704.741 that would not otherwise be required to file a new plan before January 1, 2011, shall submit an amendment to its existing plan by January 1, 2011, that complies with the provisions relating to a transmission plan in NRS 704.741, as amended by section 6 of this act.

**Sec. 11.5.** (Deleted by amendment.)

**Sec. 12.** The Public Utilities Commission of Nevada shall, not later than January 1, 2010, adopt regulations that designate renewable energy zones as defined in NRS 704.741, as amended by section 6 of this act.

**Sec. 13.** 1. This act becomes effective on July 1, 2009.

2. Sections 2 and 3 of this act expire by limitation on June 30, 2011.

