

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Rulemaking to implement the provisions of Senate)
Bill 145 (2017).) Docket No. 17-08021
_____)

At a special session of the Public Utilities Commission of Nevada, held at its offices on May 9, 2018.

PRESENT: Chairman Joseph C. Reynolds
Commissioner Ann C. Pongracz
Commissioner Bruce H. Breslow
Assistant Commission Secretary Trisha Osborne

ORDER

The Public Utilities Commission of Nevada (“Commission”) makes the following findings of fact and conclusions of law:

I. INTRODUCTION

The Commission opened a Rulemaking Docket, designated as Docket No. 17-08021, to implement the provisions of Senate Bill 145 (2017) (“SB 145”) by amending Chapter 701B of the Nevada Administrative Code (“NAC”) to expand regulations incentivizing energy storage systems as part of the Solar Energy Systems Incentive Program, creating the Electric Vehicle Infrastructure Demonstration Program, and allocating funds for the installation of solar energy systems and distributed energy generation systems benefiting low-income customers.

II. SUMMARY

The proposed regulation, attached as Attachment 1, is adopted as a permanent regulation.

III. PROCEDURAL HISTORY

- On August 25, 2017, the Commission opened an investigation and rulemaking to implement the provisions of SB 145 in accordance with Chapters 703 and 704 of the Nevada Revised Statutes (“NRS”) and the NAC, including, but not limited to, NRS 703.025 and 704.210.
- On September 22, 2017, the Commission issued a Notice of Investigation and Rulemaking, Notice of Request for Comments, and Notice of Workshop.
- On October 11, 2017, ChargePoint, Inc. (“ChargePoint”), Nevada Housing and Neighborhood Development (“Nevada HAND”), the Regulatory Operations Staff of the Commission (“Staff”), Tesla, Inc. (“Tesla”), Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy (together, “NV Energy”), the Energy Storage Association (“ESA”),

the National Resource Defense Council (“NRDC”), the Attorney General’s Bureau of Consumer Protection (“BCP”), and the Union of Concerned Scientists (“UCS”) filed comments.

- On October 25, 2017, Tesla, Staff, the Southwest Energy Efficiency Project (“SWEEP”), ESA, UCS, BCP, NV Energy, and BYD America filed reply comments.
- On October 26, 2017, Greenlots and the Nevada Housing Division (“NHD”) filed reply comments.
- On October 30, 2017, the Sierra Club filed reply comments.
- On November 6, 2017, ESA filed corrected reply comments.
- On November 13, 2017, the Commission issued Procedural Order No. 1.
- On November 17, 2017, the Governor’s Office of Energy (“GOE”) filed reply comments.
- On November 20, 2017, the Commission held a Workshop. Staff, BCP, GOE, NHD, the Nevada Department of Transportation (“NDOT”), NV Energy, ChargePoint, Tesla, UCS, Greenlots, SWEEP, Nevada HAND, and Robert Balzar, an individual, made appearances. The participants discussed the comments.
- On November 22, 2017, the Commission issued Procedural Order No. 2.
- On December 8, 2017, Nevada HAND filed comments in response to Procedural Order No. 2.
- On December 18, 2017, the Nevada Division of Environmental Protection (“NDEP”), GOE, Tesla, NV Energy, UCS, NRDC, Staff, BCP, and Greenlots filed comments in response to Procedural Order No. 2.
- On January 11, 2018, the Commission held a Workshop. Staff, BCP, GOE, NHD, NV Energy, ChargePoint, Tesla, UCS, Greenlots, Nevada HAND, Sierra Club, and the Regional Transportation Committee of Washoe County made appearances. The participants discussed the comments filed in response to Procedural Order No. 2.
- On January 12, 2018, the Commission issued Procedural Order No. 3.
- On January 18, 2018, Staff, GOE, NV Energy, ChargePoint, Greenlots, Tesla, and BCP filed comments in response to Procedural Order No. 3.
- On January 19, 2018, Sierra Club filed comments in response to Procedural Order No. 3.
- On January 22, 2018, the Commission submitted draft proposed regulations to the Legislative Counsel Bureau for pre-adoption review.

- On January 29, 2018, the Commission issued Procedural Order No. 4. Staff was directed to conduct an investigation pursuant to NRS 233B.0608(1) to determine whether the proposed regulation is likely to: (a) impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business (collectively, “Small Business Impact Report”).
- On February 20, 2018, Staff filed its Small Business Impact Report.
- On February 27, 2018, the Commission issued an Order determining that the proposed regulation does not impose a direct and significant economic burden upon small businesses, nor does it directly restrict the formation, operation, or expansion of a small business.
- On March 15, 2018, LCB returned the proposed regulation in revised form.
- On March 16, 2018, the Commission issued a Notice of Intent to Act Upon a Regulation, Notice of Workshop, and Notice of Hearing for the Adoption, Amendment, and Repeal of Regulations of the Public Utilities Commission of Nevada.
- On April 12, 2018, Tesla, Staff, BCP, NV Energy, and Greenlots each filed comments
- On April 16, 2018, the Commission held a workshop pursuant to NRS 233B.061(2). BCP, NV Energy, Staff, GOE, and Greenlots made appearances.
- On April 17, 2018, ChargePoint filed late-filed reply comments.
- On April 18, 2018, the Commission held a hearing pursuant to NRS 233B.061(3). BCP, NV Energy, Staff, GOE, ChargePoint, and Tesla made appearances.

IV. BACKGROUND

SB 145 Overview

1. Nevada continues to lead the United States as a frontier of renewable energy and progressive policies that seek to stimulate economic growth, create vital industries, and adopt the most advanced technology.¹ The Legislature took numerous strides to advance these goals by crafting an unprecedented number of bills aimed at renewable energy development during the 2017 Legislative session.² One such bill is SB 145. (Attachment 2.) This bill expands the programs eligible for incentives under the Solar Energy Systems Incentive Program (“Solar

¹ For example, see http://energy.nv.gov/Programs/Nevada_Electric_Vehicle_Programs_and_Resources/

² See, for example: Assembly Bill (“AB”) 5, AB 206, AB 223, AB 270, AB 405, AB 452, SB 65, SB 145, SB 146, SB 150, SB 204, SB314, SB 347, SB 392, SB 407, SB 507, and SCR4.

Program”) and creates two new programs: the Energy Storage Program and the Electric Vehicle Infrastructure Demonstration Program (“EV Program”). (Attachment 2, secs. 1.2-1.5.) The policy goals of the energy storage programs in SB 145 are as follows:

- a) Reduce peak demand for electricity;
- b) Avoid or defer investment by the utility in assets for the generation, transmission or distribution of electricity; and,
- c) Improve the reliability of the operation of the transmission or distribution grid.
(Attachment 2, secs. 1.2(b), 1.3(b))

2. The regulations proposed pursuant to SB 145 were developed with the following additional policy goals in mind:

- a) Increase access to residential and commercial-scale energy storage systems;
- b) Develop an electric vehicle infrastructure program to incentivize consumer adoption of electric vehicles by reducing or removing “range anxiety”; and,
- c) Provide broader access to energy storage systems and solar energy generation systems (a/k/a distributed generation systems) to low income customers.

3. Currently, renewable energy programs, such as the Solar Energy Systems Incentive Program, are mostly funded through a line-item charge to electric retail customers of NV Energy called the “renewable energy program rate” (“REPR”).³ This charge fluctuates over time depending on the incentives paid by the utility under Chapters 701B of the NRS and NAC.⁴ Currently, only bundled retail customers of NV Energy pay into the REPR. (Tr. at 236, lines 19-21.) As such, any incentives paid under SB 145 and NRS Chapter 701B will be limited to only bundled customers who pay into the REPR, thus excluding any user who has exited bundled retail service pursuant to NRS 704B. (Tr. at 236-41.)

³ The REPR is comprised of several components, including the Solar Program rate (NAC 701B.110 and 140), the Solar Thermal Program rate (NAC 701B.225 and 245), the Wind Demonstration Program rate (NAC 701B.470 and 505), and the Waterpower Demonstration Program rate (NAC 701B.650 and 685). Other renewable energy costs related to fulfilling the portfolio energy standards are funded through the Base Tariff Energy Rate, along with other fuel and purchased power expenses.

⁴ See, for example, Docket Nos. 18-03002, 18-03003, 18-03004.

4. During the 2013 Legislative session, the Legislature authorized NV Energy to pay \$255,270,000 in incentives to the Solar Energy Systems Incentive Program, pursuant to NRS 701B.005(2)(a). (Assembly Bill 428 (2013).) An additional \$40,000,000 was allocated to the Wind Energy Systems Demonstration Program and Waterpower Energy Systems Demonstration Program, pursuant to NRS 701B.005(2)(b). (*Id.*) Section 1.5 of SB 145 combined the amounts allocated under sections (a) and (b) of NRS 701B.005, setting the total amount available under the REPR for all programs to \$295,270,000. (Attachment 2, sec. 1.5) As this amount is a cap, not a floor, NV Energy may not collect the money until after the incentives are awarded. (Tr. at 199-203; BCP Comments, 10/25/17 at 3.) Just like the Solar, Wind, and Waterpower renewable energy programs, the new and expanded programs under SB 145 will be implemented and maintained through the Annual Renewable Plan (“Annual Plan”), filed by NV Energy pursuant to Chapter 701B of the NRS and NAC. (Attachment 1, secs. 9-12 and 24-27.)

5. NV Energy reported that as of December 31, 2017, \$241,283,828 of the authorized cap has been paid. At that time, additional reservations for incentives totaled \$11,250,059. Therefore, as of December 31, 2017, only \$42,736,113 in incentives were available under the current statute.⁵

6. The Energy Storage and Low Income Solar Programs created by SB 145 authorize NV Energy to award incentives totaling up to \$16,000,000. (Attachment 2, secs. 1.2(4), 1.3(4), and 1.5(3).) The EV Program has no cap. (*Id.* at 1.4.) In its recently-filed Annual Plan, NV Energy forecasts that the impact of the new and expanded program coupled with existing incentives will exhaust the cap sometime between November 2018 and February 2019.

Energy Storage Systems

7. As defined by SB 145, an “energy storage system” applies to any “commercially available technology that is capable of retaining energy, storing energy for a period of time and

⁵ According to NV Energy’s latest Annual Plan filing, Docket 18-02002, \$213,672,620 has been paid out to the SolarGenerations Project, \$26,163,708 to the WindGenerations Project, and \$1,447,500 to the HydroGenerations Project, for a total of \$241,283,828.

delivering the energy after storage, including, without limitation, by chemical, thermal or mechanical means.” (Attachment 2, sec. 1.1.)⁶ Throughout the proceedings in this Docket, the participants agreed that battery electric storage is the dominate storage medium.

8. SB 145 contemplates two categories of energy storage systems:
 - a) Energy storage systems for residential and small commercial customers, new construction, public entities, and any other category determined by the Commission (collectively, “small-scale systems”); and
 - b) Large-scale energy storage systems capable of discharging energy at rates between 100 and 1,000 kilowatts (“large-scale systems”).(Attachment 2, secs. 1.2 and 1.3.)

9. The nameplate capacity of the energy storage system determines whether the system is categorized as a small-scale or large-scale system. To ensure that the purpose of SB 145 is realized, the first category focuses on small-scale energy storage systems with a nameplate capacity of 100 kilowatts. (Tr. at 205-06.) During one of the workshops, the participants discussed that the Annual Plan only awards incentives based on the energy storage capacity (kilowatt-hours) of the battery installed, as opposed to the discharge rate (kilowatts). (Tr. at 217-219; Tesla Comments, 10/25/17 at 5; Staff Comments, 10/25/17 at 2.) As such, NV Energy crafted their incentive award to focus on systems for small-scale systems with energy storage capacities of greater than 8 kilowatt-hours. (Tr. at 217-19; Docket No. 18-02002, Annual Plan at 62.) Therefore, by limiting the systems to those with capacities of up to 100 kilowatts, the \$5,000,000 allocation under SB 145 to small-scale systems should result in several systems being installed. (Tr. at 248, lines 5-13.)

10. SB 145 also requires that, to be eligible for an incentive, small-scale energy storage systems must also install a solar system. (Attachment 2, sec. 1.2(2)(b); Tr. at 244.)

⁶ As a result, SB 145 likely includes batteries (such as lithium ion technology), as well as any other form of energy storage using chemical (e.g. vanadium redox flow batteries), thermal (e.g. solar thermal), or mechanical (e.g. flywheel) means.

11. Additionally, the proposed regulation limits the maximum incentive for any project to 50% of the final installed cost of the system. (Attachment 1, sec. 9(h).) NV Energy may adjust the incentives in its Annual Plan. (*Id.*)

12. The funding allocated to large-scale systems is expected to limit the number of installed systems due to the expense involved with installing such large battery storage systems. (Tr. at 241, lines 5-8.) Therefore, the proposed regulation directs NV Energy to prioritize incentives for critical infrastructure systems, such as hospitals, medical facilities, airports, public safety facilities, public infrastructure, dams, or other systems determined by a working group, to provide the most impact to Nevada residents. (Attachment 1, sec. 8(3)(b).) NV Energy, BCP, and the Commission are required under the proposed regulation to develop a working group to decide which entities receive large-scale system incentives. (Attachment 1, sec. 15.)

13. Due to competition for incentive money from other renewable programs, NV Energy should set aside \$5,000,000 for each of the categories of storage systems listed in 8(a) and 8(b) from the other programs to ensure that the purpose of SB 145 is realized.

14. In order to receive any storage system incentive, applicants must be customers of NV Energy, the system must be with NV Energy's service territory, the system must be installed at a location where it can be connected to NV Energy's existing distribution system, the system must be comprised of new and unused components, and provide the stated benefits. (Attachment 1, sec. 14.). NV Energy is also required to develop application and claim forms for applicants to receive incentives; these forms will be approved by the Commission in NV Energy's Annual Plan. (*Id.* at sec. 9(d)(2); Docket No. 18-02002.) To qualify for an incentive, applicants must meet certain, explicit milestones set by NV Energy; otherwise, applicants could reserve incentive money indefinitely, seeking to take advantage of reduced, future costs of system components and tying up incentives that could be otherwise put to use. (Attachment 1, sec. 13(4); Staff Comments, 10/25/17 at 2.) Currently, the milestones included in the regulations are as follows:

- A small-scale system must be fully operational within 12 months of receiving the incentive reservation; however, the Applicant may request up to two 6-month extensions and
- A large-scale system must be fully operational within 18 months of receiving the incentive reservation; however, the Applicant may request up to three 6-month extensions.

(Attachment 1 at sec. 5.)

15. Failure to meet these milestones will result in NV Energy cancelling the applicant's incentive reservation. (*Id.* at sec. 6.) The applicant may re-apply for an incentive, subject to available money and applicable incentive rates. (*Id.*)

Electric Vehicle Infrastructure Demonstration Program

16. Electric vehicles ("EVs") are the way of the future. (Michael Coren, When will self-driving electric cars make conventional cars worthless?, Quartz (2017), at <https://bit.ly/2fdDJjV>.) EVs rely on economies of scale for power production, are the forerunners in automated driving systems, and take advantage of grid synergies not available to existing technologies. (NRDC Comments, 10/11/17, Attachment "Driving Out Pollution".) Most major automobile manufacturers have announced plans to release many all-electric models over the next few years. (Coren, *supra*.) General Motors, for instance, recently announced that it will offer twenty new all-electric models to the public by 2023. (Kristen Korosec, GM's Future: 20 All-Electric Vehicles by 2023, Fortune (2017), at <https://for.tn/2ysvt4T>.) In making the announcement, GM Executive Vice President Mark Reuss stated that "General Motors believes in an all-electric future." (*Id.*) Great Britain, France, India, and Norway have already set deadlines to stop selling gas vehicles. (Alanna Petroff, These countries want to ditch gas and diesel cars, CNN Money (2017), at <https://cnmmon.ie/2uZAO4p>.) China has announced that it will soon set a deadline for automakers to end sales of fossil-fuel-powered vehicles. (Bloomberg News, China Fossil Fuel Deadline Shifts Focus to Electric Car Race, Bloomberg News (2017), <https://bloom.bg/2ePVr9h>.) While the U.S. has yet to set a deadline, 43 U.S. states took

legislative action in 2017 promoting electric vehicle technology. (Charles Morris, 43 of 50 US State Governments Addressed Electric Vehicles in 2017, Evannex (2018), at <https://bit.ly/2rgch88>.) Public transportation services are developing electric bus fleets and Transportation Network Companies (“TNCs”), such as Uber, Lyft, Waymo, and others, are planning to convert to self-driving electric vehicles in the near future and are currently testing their technology on public roads. (Tr. at 229-40; UCSs Comments, 10/25/17 at 4; Arianne Cohen, Lyft’s Strategist Wants Self-Driving Electric Cars to Save the World, Bloomberg (2018), <https://bloom.bg/2H85ze2>.) Once EVs become the norm and reach a tipping point in the grid, they could serve as distributed energy resources to balance grid voltage and power requirements when not in use. (NRDC Comments, 10/11/17, Attachment “Driving Out Pollution”.)

17. As EV technology evolves, the range of EVs continues to be extended; however, overcoming “range anxiety” is still a perceived hurdle that must be accounted for. (NRDC Comments, 10/11/17 at 4, 6-7; NRDC, *et al* Comments, 12/18/17 at 3-4.) Governor Sandoval set a goal to complete the Nevada Electric Highway by the end of 2020. (Tr. at 128, lines 3-7; Tr. at 282, lines 9-14; Nevada’s Strategic Planning Framework, pub. Apr. 11, 2016 at <https://bit.ly/2JPMURa>.) In October of 2017, Governor Sandoval also signed a Memorandum of Understanding between Nevada and seven other western states to provide the framework for creating an Intermountain West Electric Vehicle Corridor that will make it possible to seamlessly drive an electric vehicle across the signatory states’ major transportation corridors. (GOE comments, 11/17/17, Appendix A.) Overcoming range anxiety is a key to accomplishing this electric corridor. (Tr. at 102-03; Tr. at 143-44.)

18. An additional major and imperative benefit of EVs is reducing the production of green-house gases and harmful emissions produced by internal combustion vehicles, especially diesel engines. (UCS comments, 10/25/17 at 2; BYD Comments, 10/25/17 at 1.) /17/17, at 3-5.) NDEP and GOE were tasked with the administration of those funds. (*Id.*)

19. The Electric Vehicle Infrastructure Demonstration Program (“EV Program”) was developed in collaboration with several other programs, with the specific goal of completing the

Nevada Electric Highway. (GOE comments, submitted on 11/17/18, 12/18/17, 1/18/18.) The regulations developed for the EV Program were done so in combination with the Nevada Electric Highway plan⁷, the Regional Vehicle Electric West Plan⁸, the Fixing America's Surface Transportation Act⁹, the ZEV Investment Plan - Electrify America¹⁰, and the Environmental Mitigation trust Fund¹¹. (GOE comments, 11/17/17.) Many of these programs receive funding from other sources, such as the Volkswagen settlement, and are managed by multiple state agencies. (*Id.*) However, as NV Energy will be taking the lead on providing EV charging stations in remote areas, much discussion focused on how to bring money from each of these programs together to offset costs placed on NV Energy's customer base. (Tr. at 126-55.)

20. Nevada approved self-driving vehicles for testing and has been a long-term participant in bringing this technology to our roads. (Tr. at 42, lines 10-16; Mary Slosson, Google gets first self-driven car license in Nevada, Reuters (2012) at <https://reut.rs/2FFXasP>.) Nationally, TNCs and other EV commuter fleets, some owned by car manufacturers, are contemplating plans to sell miles to users much like phone plans. (Coren, *supra.*) As such, Nevada must continue to be a key player in self-driving EVs to ensure the continued flow of economic benefits and to remain a national leader in this technology.

21. The proposed regulation sets aside \$15,000,000 of incentives for the EV Program. (Attachment 1, sec. 24(i); Tr. at 375-76.)¹² Without setting aside these funds, the EV Program

⁷ A program developed by the Nevada Governor's Office of Energy, Nevada Department of Transportation, NVE, and Valley Electric Association to install EV charging stations along U.S. 95 between Reno and Las Vegas. Phase I involves installing two Level 2 chargers and a single Level 3 (DC Fast Charger) at each location. Phase II involves similar charging stations every 70-100 miles along I-15, I-80, U.S. 50, U.S. 93, and S.H. 318. (Governor's Office of Energy ("GOE") comments, 11/17/17, pp. 1-2.)

⁸ Represented by a memorandum of understanding signed by the Governors of seven western states in an effort to provide electric vehicle infrastructure throughout Nevada, Utah, Colorado, Idaho, Wyoming, New Mexico, and Arizona. (GOE comments, 11/17/17, pp. 2-3.)

⁹ The "FAST" act is a federal law creating electric vehicle corridors that include having publicly available charging stations at least every 50 miles, within 5 miles of the corridor, and have DC fast charging capabilities. Currently, I-15, I-80, U.S. 50, and U.S. 93 qualify under the FAST act as electric vehicle corridors. (GOE comments, 11/17/17, p. 3.)

¹⁰ Part of Volkswagen's consent decree to invest over \$2B in US electric vehicle infrastructure, which the GOE intends to use for DC fast charging stations in Nevada. (GOE comments, 11/17/17, p. 4.)

¹¹ Also part of Volkswagen's consent decree; to be managed by NDEP and implemented to reduce diesel engine emissions, via GOE efforts to use the money on charging stations. (GOE comments, 11/17/17, pp. 4-5.)

¹² The participants submitted briefing on the Commission's statutory authority to create the EV Program allocation.

would likely have insufficient funds for a meaningful implementation. (Staff Comments, 1/18/18 at 4; NV Energy Comments, 1/18/18 at. 4; ChargePoint Comments, 1/18/18 at 4-5; BCP Comments, 1/18/18 at 6.) This \$15,000,000 set-aside prioritizes programs that:

- a) Help complete the Nevada Electric Highway Corridor;
- b) Incentivize EV charging stations for the workplace, for multi-family dwellings, and for public and private vehicle fleets; and,
- c) Convert diesel vehicles, buses, and fleets to electric.

(Attachment 1, secs. 24(h)(1) and 30.)

22. The EV Program regulations prioritize charging stations along the Nevada Electric Highway at locations determined by the GOE, high voltage charging systems, public use charging stations, and converting public bus and heavy duty diesel fleets to electric operation. (*Id.*, secs. 24(h)(1) and 30.)

23. Applicant eligibility will be established by NV Energy in its Annual Plan and reviewed upon submission of an application by an Applicant. (*Id.*, sec. 28.) Much like the energy storage systems, applicants may apply for incentives to offset the cost of electric vehicle infrastructure and systems, which includes:

- Electric vehicles;
- Charging stations for recharging electric vehicles;
- “Make-ready” infrastructure (panels, conduits, wires, cables, and other components necessary to support an EV charging station);
- Time-variant electricity rates;
- Education initiatives;
- Advisory services for fleet operations; and,
- Partnerships to promote the EV Program.

(*Id.* at sec. 18.)

24. Applicants have 12 months to install the approved EV infrastructure from the time that the incentive is approved to prevent applicants from reserving incentive money indefinitely.

seeking to take advantage of reduced, future costs of system components and tying up incentives that could be otherwise put to use. (*Id.* at sec. 28.) To qualify for an incentive, the EV infrastructure and systems must be located within NV Energy's service territory, connected to NV Energy's grid, and comprised of new and unused components. (*Id.*)

25. While the EV infrastructure is not limited to high voltage systems, the regulations prioritize high voltage systems because Level 2 and Direct Current fast chargers operate at or above 240 volts. (*Id.* at 30(1).) Level 2 or greater charging systems are desirable because lower voltage systems charge significantly slower; however, even Level 2 chargers can take four hours to fully charge an EV battery. (NRDC Comments, 10/11/17 at 7-8; Tesla Comments, 10/25/17 at 9.) From a practical perspective, drivers attempting to drive across Nevada will not want to purchase an electric vehicle if, instead of taking a few minutes to refuel with gasoline, it takes a long time to recharge an EV battery. (Tr. at 143-45; Tr. at 285, lines 12-16.)

26. The proposed regulation allows NV Energy to own and operate charging stations along the Nevada Electric Highway Corridor at sites designated by GOE and recover those costs. (Attachment 1 at 30.) NV Energy acknowledged that it would likely utilize private sector companies through a RFP process to install such equipment. (Tr. at 294, lines 6-10; Tr. at 297-98.)

27. The proposed regulation also allows NV Energy to own and operate charging stations elsewhere in their service territory. (Attachment 1, sec. 30.) However, any investment in those charging stations will be reviewed for prudence in a future rate filing. (*Id.*) Furthermore, NV Energy agrees that any rates related to NV Energy operating EV infrastructure and systems would be subject to Commission approval; systems owned, but not operated by NV Energy would not be subject to approval. (Tr. at 388-89.)

28. Finally, the Legislature specifically excluded from the definition of "public utility" or "utility," "[p]ersons who own, control, operate or manage a facility that supplies electricity only for use to charge electric vehicles." (*Id.*, sec. 2.5(11).) This was necessary as NRS 704.020 defines a utility as any "plant or equipment, or any part of a plant or equipment,

within this State for the production, delivery or furnishing for or to other persons heat, gas, coal slurry, light, power in any form...or sewage services.” In the context of SB 145, this provision excludes EV charging station operators from being regulated as a utility, much like gasoline stations are not regulated, even though gasoline stations furnish gasoline to other persons. (Staff Comments, 1/18/18 at 2-3; NV Energy Comments, 1/18/18 at 1-3; Greenlots Comments, 1/18/18; Tesla Comments, 1/18/18 at 1; ChargePoint Comments, 1/18/18 at 2-5; Sierra Club, et al, Comments, 1/18/18 at 2-6.) This does not suggest that any currently-regulated utility would cease being regulated as a utility simply because it owns and/or operates charging stations for EVs. (*Id.*)

Low Income Solar Program

29. In addition to creating the Energy Storage and EV Programs discussed above, SB 145 also allocates \$1,000,000 per year over the next six years to develop solar generation systems at “locations that benefit low-income customers, including, without limitation, homeless shelters, low-income housing developments and public entities, other than municipalities, that serve significant populations of low-income residents.” (Attachment 2, sec. 1.5(3).) To implement this portion of SB 145, the proposed regulation memorializes the results of a collaboration between NV Energy and the NHD to ensure that the benefits are used appropriately and timely. (Attachment 1, sec. 31(3).)

Annual Plan for 2018

30. NV Energy is required by NRS 701B.230 to submit an Annual Plan every year on or before February 1. To ensure that the EV and Energy Storage Programs are implemented before the next legislative session in 2019, the Presiding Officer directed NV Energy to submit its Annual Plan, including the EV and Energy Storage Programs, by February 1, 2018, before the Commission had fully promulgated regulations. (Tr. at 234-235.) NV Energy assented to the aggressive schedule and submitted their 2018 Annual Plan on February 2, 2018. (*Id.* at 235, line 2.) Two main reasons exist for the aggressive schedule: first, the importance of the programs to Nevada as both a leader in energy storage and EVs; and second, the incentives available under

NRS 701B.005 may not be available if the current pace of rooftop solar installations continues unchecked. (Tr. at 42-43.) The Annual Plan is currently pending in Docket No. 18-02002.

V. REGULATION

31. The Commission finds that the proposed regulation, attached hereto as Attachment 1, accomplishes the legislative intent of SB 145, as discussed above.

32. Based on the foregoing, the Commission finds that it is in the public interest to adopt as permanent the proposed regulation attached hereto as Attachment 1.

THEREFORE, it is ORDERED:

1. The proposed regulation, attached hereto as Attachment 1, is ADOPTED AS PERMANENT.


By the Commission,



JOSEPH C. REYNOLDS, Chairman



ANN C. PONGRACE, Commissioner

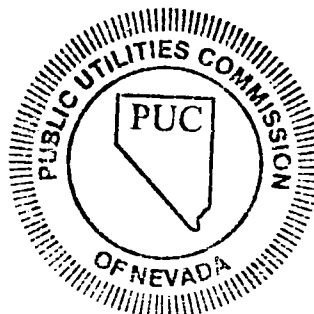


BRUCE H. BRESLOW, Commissioner and
Presiding Officer

Attest: 

TRISHA OSBORNE
Assistant Commission Secretary

Dated: Carson City, Nevada
5/11/18
(SEAL)



ATTACHMENT 1

**PROPOSED REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA**

LCB File No. R022-18

May 9, 2018

EXPLANATION - Matter in *italics* is new; material in *italics and underlined* by the Commission recently; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§1-15, NRS 703.025 and sections 1.2 and 1.3 of Senate Bill No. 145, chapter 239, Statutes of Nevada 2017, at page 1265 (NRS 701B.223 and 701B.226, respectively); §§16-30, NRS 703.025 and section 1.4 of Senate Bill No. 145, chapter 239, Statutes of Nevada 2017, at page 1267 (NRS 701B.670); §31, NRS 701B.005, 701B.200, 701B.220 and 703.025.

A REGULATION relating to energy; establishing the Energy Storage Program for use by public utilities that supply electric energy in this State; establishing terms and conditions for participation in the Energy Storage Program; establishing incentives for the installation of certain energy storage systems; providing for the recovery by utilities of certain costs relating to the Energy Storage Program; establishing terms and conditions for participation in the Electric Vehicle Infrastructure Demonstration Program; establishing incentives for the installation of certain electric vehicle infrastructure and systems; providing for the recovery by utilities of certain costs relating to the Electric Vehicle Program; revising provisions relating to the filing of certain annual plans by a utility; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Public Utilities Commission of Nevada to establish, as part of the Solar Energy Systems Incentive Program, incentives for: (1) the installation of energy storage systems by customers of an electric utility; and (2) the installation of energy storage systems that have a nameplate capacity of at least 100 kilowatts but not more than 1,000 kilowatts by certain customers of an electric utility. (Sections 1.2 and 1.3 of Senate Bill No. 145, chapter 239, Statutes of Nevada 2017, at page 1265-66 (NRS 701B.223 and 701B.226, respectively)) **Section 8** of this regulation establishes the Energy Storage Program for use by public utilities that supply electric energy in this State. **Section 9** of this regulation requires each utility that supplies electric energy in this State to file an annual plan with the Commission relating to the Energy Storage Program and sets forth certain information that must be included in such a plan. **Section 10** of this

regulation requires a utility to separately account for all costs and revenues associated with the administration of the Energy Storage Program. **Section 10** also authorizes a utility to recover certain costs associated with the Energy Storage Program.

Existing law authorizes an electric utility that is required to make quarterly adjustments based on the fluctuating price of fuel or power to request approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. (NRS 704.110) **Section 12** of this regulation requires such a utility to include in its adjustment application an Energy Storage Program rate.

Section 13 of this regulation requires a customer seeking to participate in the Energy Storage Program to submit an application for reservation of an incentive to the utility and sets forth the timeline for review of the application and issuance of such a reservation. **Section 14** of this regulation sets forth the criteria that an energy storage system must meet to qualify for participation in the Energy Storage Program. **Section 15** of this regulation provides that the Commission will establish a working group comprised of representatives from certain governmental entities and private industry stakeholders that will meet annually to establish the criteria an applicant must meet to participate in the portion of the Energy Storage Program for customers who install energy storage systems that have a nameplate capacity of at least 100 kilowatts but not more than 1,000 kilowatts.

Existing law also: (1) creates the Electric Vehicle Infrastructure Demonstration Program; (2) requires the Commission to adopt regulations concerning the Program; and (3) authorizes each utility to recover the costs of carrying out the Program. (Section 1.4 of Senate Bill No. 145, chapter 239, Statutes of Nevada 2017, at page 1268 (NRS 701B.670)) **Section 24** of this regulation requires each utility in this State to file an annual plan with the Commission relating to the Electric Vehicle Program and sets forth certain information that must be included in such a plan. **Section 25** of this regulation requires a utility to separately account for all costs and revenues associated with the administration of the Program. **Section 25** also authorizes a utility to recover certain costs associated with the Program. **Section 27** of this regulation requires a utility that is required to make quarterly adjustments based on the fluctuating price of fuel or power with approval from the Commission to include in its adjustment application an Electric Vehicle Program rate.

Section 28 of this regulation requires a customer seeking to participate in the Electric Vehicle Program to submit an application for reservation of an incentive to the utility and sets forth the timeline for review of the application and issuance of such a reservation. **Section 29** of this regulation sets forth the criteria that electric vehicle infrastructure and systems must meet to qualify for participation in the Program. **Section 30** of this regulation requires a utility participating in the Electric Vehicle Program to prioritize incentives for certain types of electric vehicle infrastructure.

Existing law requires the Commission, for the period beginning on January 1, 2018, and ending on December 31, 2023, to authorize the payment of incentives in an amount of not more than \$1,000,000 per year for the installation of solar energy systems and distributed generation systems at locations throughout the service territories of electric utilities in this State that benefit low-income customers. (NRS 701B.005) Existing regulation sets forth the information that must be included in a utility's annual plan for the Solar Energy Systems Incentive Program. (NAC 701B.125) **Section 31** of this regulation requires a utility, beginning with the annual plan submitted on or before February 1, 2018, to include its plan to partner with the Housing Division of the Department of Business and Industry to allocate such incentives for the installation of such systems that benefit low-income customers.

Section 1. Chapter 701B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 30, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 15, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Applicant” means:*

- 1. A customer of a utility who applies to participate in the Storage Program;*
- 2. A licensed contractor who applies on behalf of a customer of a utility to participate in the Storage Program; or*
- 3. Any other person who applies on behalf of a customer of a utility to participate in the Storage Program if:*
 - (a) The person is designated and authorized by the customer to apply on behalf of the customer to participate in the Storage Program; and*
 - (b) The designation and authorization are set forth in a letter from the customer to the utility which sets forth the relationships between the customer and the person.*

Sec. 4. “Participant” means a person who has been selected by a utility to participate in the Storage Program.

Sec. 5. “Storage Program” means the Energy Storage Program established by section 8 of this regulation.

Sec. 6. “Storage Program rate” means the rate established pursuant to section 12 of this regulation.

Sec. 7. “Utility” has the meaning ascribed to it in NRS 701B.180.

Sec. 8. 1. In accordance with the requirements of sections 1.2 and 1.3 of Senate Bill No. 145, chapter 239, Statutes of Nevada 2017, at page 1265 (NRS 701B.223 and 701B.226, respectively), the Commission hereby establishes the Energy Storage Program for use by utilities that supply electric energy in this State.

2. The Energy Storage Program consists of the following categories of participants:

(a) Residential and small commercial;

(b) New construction;

(c) Public entities; and

(d) Large commercial and industrial customers of utilities who install energy storage systems that have a nameplate capacity of at least 100 kilowatts but not more than 1,000 kilowatts.

3. In selecting participants in the categories described in:

(a) Paragraphs (a), (b) and (c) of subsection 2, a utility shall give priority to applicants who install storage systems that have a nameplate capacity of less than 100 kilowatts.

(b) Paragraph (d) of subsection 2, a utility shall give priority to customers of the utility that own or operate:

(1) Hospitals or medical facilities;

(2) Airports;

(3) Public safety facilities;

(4) Public infrastructure facilities or dams; or

(5) Other facilities that support critical infrastructure needs, as determined by the working group established pursuant to section 15 of this regulation.

Sec. 9. 1. Not later than February 1, 2018, and annually thereafter, a utility shall include in the annual plan filed with the Commission pursuant to NAC 701B.125 an annual plan for the Storage Program which must contain the following:

(a) A schedule describing major milestones of the Storage Program.

(b) A budget which includes information relating to:

(1) Incentives, including, without limitation, proposed incentive levels or payments;

(2) Contractor costs;

(3) Marketing costs;

(4) Training costs; and

(5) Utility administrative costs.

(c) Following the first plan year, a report on the productivity of the Storage Program for the previous year and a status report on the current year, including, without limitation:

(1) The number of applications received by the utility in each category of the Storage Program;

(2) The number of participants in the Storage Program and the number of participants who have withdrawn from the Storage Program;

(3) The annual budget and expenditures of the Storage Program;

(4) A list of completed installations;

(5) A summary of marketing efforts; and

(6) A description of training for inspectors, certifiers and contractors and educational activities.

(d) A description of the application process, including, without limitation:

(1) The procedures to be followed by the applicant and the utility; and

(2) Copies of proposed applications and forms.

(e) A customer outreach and engagement plan.

(f) An education and training plan, including, without limitation, a tentative schedule of training to be offered by the utility.

(g) An inspection and verification plan.

(h) A proposed schedule of incentives that limits the incentives received by residential, small commercial, new construction and public entity participants to not more than 50 percent of the installed cost of the energy storage system.

2. Within 150 days after a utility has filed an annual plan, the Commission will issue an order approving the annual plan with such modifications and upon such

terms and conditions as the Commission finds necessary or appropriate to facilitate the Storage Program.

Sec. 10. 1. *All reasonable and prudent costs associated with carrying out and administering the Storage Program must be accounted for in books and records of a utility separately from amounts attributable to any other activity. The utility must account for such costs and revenues pursuant to section 11 of this regulation.*

2. The costs that may be recoverable include, without limitation, costs for labor, materials, rebates, contractors, training, advertising, marketing, measurement, verification, evaluation and overhead, and utility administrative costs.

Sec. 11. *A utility shall account for costs and revenues in the following manner:*

1. Calculate, on a monthly basis, the costs incurred and revenues received in the Storage Program since the end of the test period in its last proceeding to change the Storage Program rate;

2. Record the cost of the Storage Program in a separate subaccount of FERC Account No. 182.3 and make an appropriate offset to other subaccounts;

3. Maintain subsidiary records of the subaccount of FERC Account 182.3 which must clearly delineate, without limitation, the incentives, contractor costs, marketing costs, training costs and utility administrative costs associated with the Storage Program;

4. Record in the subaccount of FERC Account No. 182.3 the revenues attributable to the Storage Program rate to recover the costs of the Storage Program; and

5. Apply a carrying charge at the rate of one-twelfth of the authorized rate of return to the monthly ending balance in the subaccount of FERC Account No. 182.3.

Sec. 12. 1. *A utility shall include with its annual deferred energy accounting adjustment application filed pursuant to subsection 11 of NRS 704.110 a revised Storage Program rate. The rate must be calculated by adding the following two components:*

(a) A prospective rate determined by dividing not more than the total costs in the Storage Program annual plan by the projected kilowatt-hours for the calendar year; and

(b) A clearing rate determined by dividing the cumulative balance in the Storage Program subaccount of FERC Account No. 182.3 at the end of the deferred energy test period as defined in NAC 704.063 by the test period kilowatt-hour sales.

2. *The Commission will allow recovery of all prudent Storage Program costs included in the subaccount of FERC Account No. 182.3 at the end of the test period as defined in NAC 704.063 and adjust the Storage Program rate accordingly.*

Sec. 13. 1. *An applicant must submit an application for reservation of an incentive to the utility using forms provided by the utility and approved by the Commission.*

2. *If the application is determined by the utility to be incomplete or to require clarification, the utility shall request additional information from the applicant. If the applicant fails to submit the requested information within 20 calendar days after receipt of the request, the utility shall cancel the application. If an application is cancelled by the utility, the applicant may resubmit an application for the project to the utility. All resubmitted applications must be treated as new applications and be processed in sequence with other new applications. An incentive must not be reserved until the utility receives all required information and documentation and approves the project.*

