

# PUCN Utility Regulation in Nevada

## LEGISLATIVE AUTHORITY

The Public Utilities Commission of Nevada (PUCN) is a regulatory agency that ensures utilities comply with laws enacted by the Nevada Legislature. Nevada Revised Statutes (NRS) Chapters 703 and 704 contain the enabling legislation that establishes and defines the PUCN's regulatory duties. The PUCN creates regulations that have the force and effect of law; they are contained in Nevada Administrative Code (NAC).

To illustrate how utility regulation works in Nevada, consider Nevada's Renewable Portfolio Standard (RPS), located at NRS 704.7801 - 704.7828. The RPS was created by the Legislature to require that a certain percentage of electricity sold by each electric utility to its customers come from renewable energy resources. The PUCN ensures each utility's compliance with the RPS through regulations in NAC 704.8831 through 704.8899, and by reviewing individual filings made by utilities to demonstrate that they have complied with the RPS requirements. Utilities that do not comply with the RPS may be administratively fined.

## REGULATORY DUTIES

The PUCN's basic regulatory duties as defined by the Legislature include:

- To provide for fair and impartial regulation of public utilities.
- To provide for the safe, economic, efficient, prudent and reliable operation and service of public utilities.
- To balance the interests of customers and shareholders of public utilities by providing public utilities with the opportunity to earn a fair return on their investments while providing customers with just and reasonable rates.

## STRUCTURE OF THE AGENCY

The PUCN is made up of two distinct groups. One group works on the side that acts as a decision maker, like a court. The other group participates as a party in proceedings before the decision-making side. The side of the PUCN that issues decisions is made up of the commissioners, executive director, administration, general counsel, hearing officers, and policy analysis. The other side of the PUCN is regulatory operations staff (Staff), which acts as a party to PUCN proceedings and includes the director of regulatory operations, staff counsel, resource and market analysis, financial analysis, engineering, rail safety and consumer complaint resolution.



The PUCN is a state agency that regulates public utilities engaged in electric, natural gas, telephone, water and wastewater services; geothermal facilities; gas and electric "master meter" service at mobile home parks; and some propane systems. The PUCN also inspects Nevada's railways for safety and monitors gas pipelines across the state.

*The PUCN does not regulate cooperatives or municipal-owned utilities.*

## INVESTIGATIONS, RULE-MAKINGS & CONTESTED CASES

The PUCN is quasi-judicial, similar to a court, and is required by statute to make decisions based upon evidence formally accepted into the record. PUCN decisions are formulated through formal processes that start when a utility or other entity submits a filing to the PUCN. Filings include applications, petitions, reports, complaints, and plans. Depending on the type of filing, the resulting case

before the PUCN may be contested or uncontested. The PUCN also conducts investigations, sometimes on its own initiative and sometimes pursuant to request. Depending on the purpose of an investigation and the information gathered over the course of the proceeding, an investigation may lead to a rulemaking in which the PUCN establishes regulations.

**1. Investigations:** Investigations are opened for a number of reasons, but are generally conducted to gather information. Investigations may be treated as contested or uncontested cases. In most investigations, the PUCN gathers information by requesting comments and holding workshops, but other steps may also be involved depending on the individual investigation. Some investigations are initiated by a request from Staff in response to a problem with a utility. In these types of investigations, the PUCN may require the utility in question to participate and provide information to determine whether a problem exists and how best to address it.

**2. Rulemakings:** The PUCN creates regulations through a process called rulemaking. Most of the regulations created by the PUCN are contained in NAC Chapters 701B, 703 and 704. Rulemakings must be conducted according to a formal process spelled out in NRS Chapter 233B, which includes a workshop and a hearing. Regulations must be approved by the Legislative Counsel Bureau and the Legislative Commission to become effective and codified in NAC.

**3. Contested and Uncontested Cases:** A case is contested if significant rights or obligations of the utility are at issue, NRS requires it to be a contested case, or a person or entity requests to participate as an intervener. An intervener is a person or organization who requests to participate to protect their own substantial interests that may be affected by the PUCN's decision in the case. An intervener must be granted permission by the PUCN to participate as a party in a case, but Staff may always participate as a party. An example of a

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Ph: (775) 684-6101 | Fax: (775) 684-6110

Consumer Complaints: (775) 684-6100

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### SOUTHERN NEVADA

9075 W. Diablo Dr., #250, Las Vegas, NV 89148

Ph: (702) 486-7210 | Fax: (702) 486-7206

Consumer Complaints: (702) 486-2600

## WHO CAN PARTICIPATE IN CONTESTED CASES?

Participation in a contest case's prehearing conference & formal hearings is limited to parties that participate as a matter of right & those who have requested & been granted intervenor status by the presiding officer.

**MATTER OF RIGHT PARTIES:** The applicant/utility, PUCN Regulatory Operations Staff (Staff) and the Bureau of Consumer Protection participate as a matter of right.

**INTERVENERS:** An intervenor is a person or organization whose substantial interests may be affected by the PUCN's decision in the docket. Interveners may present technical evidence through witnesses and question other parties' witnesses. Because the BCP represents the collective interests of residential and small business consumers in PUCN proceedings, these two groups are generally not granted intervenor status.

**BUREAU OF CONSUMER PROTECTION (BCP):** The BCP is part of the Nevada Attorney General's Office. The BCP represents residential and small business customers before the PUCN. The BCP's role is to advocate for reliable utility service at the lowest reasonable cost for residential and small business consumers.

**COMMENTERS:** A person or organization may participate as a commenter by filing written comments prior to a scheduled proceeding and identify themselves or the organization as a commenter. Comments must adhere to requirements for submitting a pleading outlined in NAC 703.560. Pursuant to NAC 703.491, commenters may file written comments regarding issues in the proceeding, but are not parties to a proceeding. While comments are valuable and may lead to the introduction of evidence by a party (such as Staff or the BCP), comments are not evidence pursuant to NRS 233B.123.

contested case is a utility's application to change rates charged to customers. Contested cases at the PUCN involve the filing of written testimony by the parties and a formal evidentiary hearing process. However, if the parties reach a settlement agreement prior to the filing of testimony or the date the hearing is scheduled to begin, those items may be cancelled. Presiding officers and their advisors are prohibited from discussing issues of fact or law involved in contested cases with any individual party, including Staff, unless all parties to the case are given notice and an opportunity to participate in the discussion. This is called the ex parte rule.

### FORMAL EVIDENTIARY HEARING PROCESS IN CONTESTED CASES

**1. Filing Received:** Contested cases generally begin with an initial filing by a utility, which starts the process outlined below. This process may also begin with the filing of a complaint by a consumer.

**2. Presiding Officer Assigned:** The PUCN has three commissioners, one of whom serves as chair. After receipt of a filing, the chair either assigns herself, one of the other two commissioners, or a hearing officer, if appropriate, to oversee the proceedings as the presiding officer.

**3. Docket Number Assigned:** The PUCN's Business Process Services division (BPS) assigns a docket number to the initial filing. All subsequent documents (notices, testimony, orders, etc.) issued by the PUCN or filed by parties to the case will be identified by the same docket number for tracking purposes.

**4. Initial Notice Issued:** Within 10 business days, the PUCN issues a notice of the filing, typically in combination with a notice of a prehearing conference. Initial notices contain a brief description of the filing or proceeding; the effect it will have on consumers if approved as requested; the date by which requests to participate must be submitted; and the date a prehearing conference will be held. The notice is published in major newspapers in counties that will be affected by the filing. The notice is also posted at the PUCN's offices in Las Vegas

and Carson City and on the "Docket Info" page on the PUCN's website. People who have subscribed to applicable PUCN service lists will also be informed of the filing. Subscribers to the service list specific to the docket will receive subsequent notices and orders issued by the PUCN.

**5. Discovery Conducted:** From the moment a filing is made until shortly before a hearing begins, Staff investigates the facts and issues raised in the utility's filing by conducting discovery. The discovery process involves the exchange of information by the parties to further their investigation and formulate their positions; information obtained through discovery is not public information. As part of discovery, parties request evidence from the utility, including answers to interrogatories and requests for documentation. All parties are entitled to conduct discovery. Staff may also conduct infrastructure inspections, review plant and financial records and assess the quality of the utility's customer service.

**6. Prehearing Conference Held:** A prehearing conference is held to simplify issues and set a hearing and procedural schedule. Due dates are also set for Staff and intervenor testimony, rebuttal testimony from the utility, and dates are determined for any consumer sessions to be held as part of the case.

**7. Procedural Order Issued:** The PUCN typically issues a procedural order to memorialize the schedule set at the prehearing conference. The procedural order in a given docket is available on the "Docket Info" page on the PUCN's website. People who have subscribed to the appropriate service list(s) will also be informed of the procedural order.

**8. Consumer Session(s) Held:** By law, the PUCN is required to hold consumer sessions for certain filings, and the utility is required to provide written notice of the consumer session to its customers. Generally the utility provides this notice on the customer's bill or as an insert to the bill. The PUCN also provides public notice. Consumer sessions offer a forum for the public to voice opinions about the filing directly to PUCN Commissioners and Staff, and the BCP.

**9. Hearings Held:** During hearings, parties present evidence and cross-examine each other's witnesses. The presiding officer may ask questions of witnesses, too. The evidence presented will become the record on which the PUCN will base its decision. Hearings are transcribed by a court reporter.

**10. Draft Order Issued:** At the conclusion of the proceedings, the presiding officer, with input from PUCN policy advisors and attorneys, writes a draft order. The draft order is based on the evidence in the record (e.g., application, pre-filed written testimony, transcripts). In the draft order, the presiding officer may recommend granting or denying the relief requested in the filing. The draft order is available on the "Docket Info" page on the PUCN's website in advance of the agenda meeting. The draft order is subject to change at the agenda meeting.

**11. Agenda Meeting:** The draft order is presented to the full Commission (two commissioners and Chair) at a duly noticed agenda meeting. At the agenda meeting, the commissioners have an opportunity to discuss evidence in the record and make modifications to the draft order. At the conclusion of this discussion, they vote on whether the draft order should be issued, and whether the underlying relief requested should be granted.

**12. Petition for Reconsideration or Rehearing:** If any party disagrees with the PUCN's final order, the party has 10 business days from the date the order is issued (the date that the order is signed) to file a Petition for Reconsideration or Rehearing. The PUCN has 40 days to grant or deny a petition; if the PUCN takes no action the petition is deemed denied. The party may appeal a denial to the District Court.

### CITIZEN INVOLVEMENT IN PUCN PROCEEDINGS/ CONSUMER SESSIONS

**Open Meeting Law:** The PUCN is subject to Nevada Open Meeting Law requirements, which means all PUCN proceedings are open to the public (unless specific exceptions apply). The PUCN must also designate time for public comment at agenda

meetings. However, comments are not evidence and therefore cannot be considered by the PUCN when making a decision in a particular docket.

**Consumer Sessions:** Members of the public can have an impact by participating in consumer sessions. There are two types of consumer sessions: general consumer sessions and casespecific consumer sessions. All consumer sessions are free and open to the public. PUCN staff facilitate consumer sessions by greeting attendees, signing up those who wish to speak and answering questions about the process. Representatives from the BCP and the utilities are available at case-specific consumer sessions.

- General Consumer Sessions:** Each calendar year, the PUCN must conduct at least one general consumer session in the county with the largest population (Clark) and in the county with the second largest population (Washoe). The general consumer session allows the public to provide input about any topic concerning utilities regulated by the PUCN. The record from the consumer session is provided to the Legislature.
- Case-Specific Consumer Sessions:** The PUCN is required to hold case-specific consumer sessions for certain filings. The PUCN must conduct consumer sessions when utilities file applications that meet certain requirements, including general rate applications; applications to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale; annual deferred energy accounting adjustment applications; and annual rate adjustment applications. The PUCN may hold additional case-specific consumer sessions, although not required to do so by law. Case-specific consumer sessions offer a forum for the public to voice opinions about the filing directly to PUCN commissioners and staff.

### MORE INFORMATION

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### PUCN ORGANIZATIONAL CHART

