

PROPOSED REGULATION OF THE PUBLIC UTILITIES

COMMISSION OF NEVADA

LCB File No. R142-99

October 20, 1999

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-37, NRS 703.025 and 704.978.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 37, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 37, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 12, inclusive, of this regulation, have the meanings ascribed to them in those sections.*

Sec. 3. *“Alternative seller” has the meaning ascribed to it in NRS 704.967.*

Sec. 4. *“Distribution customer” means:*

- 1. A licensed alternative seller;*
- 2. An end-use customer that has agreed to an aggregated load of 100 megawatts or more and that has executed or intends to execute a service agreement for distribution service with an electric distribution utility; and*
- 3. An end-use customer that has received approval from the commission to secure its own distribution service and that has executed or intends to execute a service agreement for distribution service with an electric distribution utility.*

Sec. 5. *“Distribution facilities” means those facilities used to provide distribution service.*

Sec. 6. *“Distribution service” means service provided over the physical distribution plant of an electric distribution utility to deliver electricity from the transmission system to end-use customers.*

Sec. 7. *“End-use customer” means a retail customer of a potentially competitive service.*

Sec. 8. *“Electric distribution utility” has the meaning ascribed to it in NRS 704.970.*

Sec. 9. *“Potentially competitive service” has the meaning ascribed to it NRS 704.974.*

Sec. 10. *“Provider of last resort” means the entity designated by the commission pursuant to NRS 704.982 to provide electric service to end-use customers who are unable to obtain electric service from an alternative seller or who fail to select an alternative seller.*

Sec. 11. *“Prudent utility practice” means:*

1. *Any practice, method or act engaged in or approved by a significant portion of the electric utility industry for the time in which the practice is used; or*

2. *Any practice, method or act which, in the exercise of reasonable judgment and in light of the facts known at the time that the decision was made, could be expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and efficiency, and practices and acts generally accepted in the Western System Coordinating Council region.*

Sec. 12. *“Service territory” means the territory in which an electric distribution utility has responsibility to supply or make available noncompetitive services, as of December 31, 1999, and until such time that the commission changes the territory.*

Sec. 13. *An electric distribution utility shall file with the commission for approval:*

1. *A tariff for distribution service which is consistent with sections 2 to 37, inclusive, of this regulation;*

2. *A service agreement which is consistent with section 15 of this regulation; and*
3. *A service request form which is consistent with sections 16 of this regulation.*

Sec. 14. *The tariff for distribution services which an electric distribution utility must file with the commission must set forth the terms and conditions pursuant to which the electric distribution utility will provide distribution service over its distribution facilities within its service territory to distribution customers for the delivery of electricity.*

Sec. 15. *A service agreement between an electric distribution utility and a distribution customer which the electric distribution utility must file with the commission must:*

1. *Incorporate all of the provisions of the tariff for distribution services of the electric distribution utility by reference.*

2. *Address the term of service, which must commence on the date specified in the service agreement and terminate:*

- (a) *On the date on which the distribution customer is no longer providing service within the service territory of the electric distribution utility;*

- (b) *On the date mutually consented to by the distribution customer and the electric distribution utility; or*

- (c) *As a result of default of the agreement as described in the service agreement, as appropriate.*

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3. *Address the circumstances pursuant to which a party to the agreement will be considered to be in default under the terms of the agreement, including, without limitation, nonpayment and a material breach of a term of the service agreement, and must include mechanisms pursuant to which the parties to the agreement can cure a default, all of which*

the electric distribution utility must comply with before it may terminate service to the distribution customer.

4. Set forth the obligations of the distribution customer to the electric distribution utility, including, without limitation, the obligation of the distribution customer to:

(a) Pay for service rendered to the distribution customer under the tariff for distribution services of the electric distribution utility and the service agreement, regardless of any default by an end-use customer to the distribution customer; and

(b) Provide sufficient power for its customers, taking into account the losses in power that will occur. The service agreement must specify those situations in which deficiencies in the delivery of the service are such that back-up is permissible and in which deficiencies will be considered to be significant enough to result in a breach of the obligation of the distribution customer to provide power to its customers.

5. Establish the procedure pursuant to which the electric distribution utility will bill the distribution customer, and must specify where and when payments of bills must be made.

6. Address the limitation of liability between the parties to the service agreement and the requirements for indemnification.

7. Address the rights of the parties to the service agreement to assign and delegate rights and obligations under the service agreement.

8. State where all required notices must be sent.

9. Include a procedure for the resolution of disputes arising from the service agreement.

10. Include a procedure pursuant to which either party to the service agreement can initiate and conduct an audit of the relevant records of the other party.

Sec. 16. *A service request form that an electric distribution utility must submit to the commission must require the distribution customer making the request for service to provide:*

- 1. The name and address of the end-use customer;*
- 2. The account number assigned by the distribution customer to the end-use customer;*
- 3. An identification number for the point of deliver of the service or any other information that will identify the point of delivery;*
- 4. The name and billing address of the distribution customer making the request for service; and*
- 5. Any other information that the commission determines to be necessary for the provision of distribution service from the electric distribution utility to the distribution customer.*

Sec. 17. *An electric distribution utility shall:*

- 1. Provide distribution service to all customers within its service territory under the terms and conditions of its tariff for distribution services filed with the commission.*
- 2. Provide distribution service in a nondiscriminatory manner and consistent with NAC 704.789 to 704.792, inclusive.*
- 3. Unless otherwise requested by a distribution customer pursuant to section 18 of this regulation, provide firm distribution service to each end-use customer in accordance with prudent utility practices.*

Sec. 18. *1. If a distribution customer requests a type of distribution service from an electric distribution utility other than firm distribution service which would be provided pursuant to subsection 3 of section 17 of this regulation, the electric distribution utility shall attempt to negotiate with the distribution customer a definition of and rate for such a service.*

If the negotiations are successful, the electric distribution utility shall submit to the commission a request to amend its tariff for distribution services to include the service as negotiated. If an electric distribution utility amends its tariff for distribution service pursuant to this subsection to include a negotiated service, the electric distribution utility shall make the service available to all similarly situated distribution customers on a nondiscriminatory basis.

2. No sooner than 90 days or later than 120 days after the date on which an electric distribution utility receives a request for a distribution service subject to negotiation pursuant to this section, the electric distribution utility or any other party to the negotiation may petition the commission to arbitrate any open issues. A party petitioning the commission to resolve an open issue pursuant to this subsection shall, at the time that it submits its petition, provide the commission with copies of all relevant documents, including, documents:

(a) Concerning the unresolved issue and the position of each party to the negotiation with respect to that issue;

(b) Demonstrating that the new service being requested will not impair the reliability of the distribution system of the electric distribution utility or raise the cost of distribution service which the electric distribution provides to other distribution customers; and

(c) Concerning any other issues that were discussed and resolved by the parties to the negotiation.

3. A party petitioning the commission to resolve an open issue pursuant to subsection 2 shall provide a copy of the petition and copies of any documentation included with the petition to the other parties to the negotiation no later than the date on which the commission receives the petition. Within 25 days after the date on which the commission receives the petition, a

party to the negotiations, other than the petitioning party, may respond to the petition and provide such additional information as that party determines is necessary.

Sec. 19. 1. *Before accepting for consideration a service request form from a distribution customer, an electric distribution utility shall verify that the distribution customer meets or is capable of meeting, or otherwise complying with, the requirements of this section and sections 20 and 21 of this regulation.*

2. A distribution customer which submits a service request form to an electric distribution utility must present with the service request form documentation that:

(a) If the distribution customer is an alternative seller, the distribution customer is licensed by the commission; and

(b) If the distribution customer is an end-use customer, that the alternative seller of the distribution customer has been licensed by the commission.

3. A distribution customer shall submit a completed service agreement to the electric distribution utility for the electric distribution utility to consider.

Sec. 20. *A distribution customer must have and maintain one of the following indicia of its creditworthiness:*

1. A long-term bond rating or other senior debt rating that is at least BBB- or an equivalent rating. The rating must be determined by Standard and Poor's Rating Services or another recognized debt rating service in the United States or Canada.

2. A security deposit based on the cost of the distribution services to be provided in an amount equal to twice the estimated monthly maximum bill of the distribution customer for those distribution services, except that the initial amount of the security deposit is equal to the amount estimated by the distribution customer that would cover the expected customer base of

the distribution customer. The distribution customer shall quarterly adjust the amount of the security deposit to ensure that the amount of the security deposit is sufficient to cover the actual customer base of the distribution customer during the previous quarter. A security deposit may be in the form of:

(a) A cash deposit, with interest earned at the rate set forth in NRS 704.655 for customer deposits;

(b) An irrevocable and renewable letter of credit issued by a major financial institution that is acceptable to the electric distribution utility;

(c) A renewable surety bond issued by a major insurance company which is acceptable to the electric distribution utility; or

(d) A guarantee with a guarantor possessing a credit rating of Baa2 or higher from Moody's, or BBB or higher from Standard and Poor's Ratings Services, Fitch IBCA or Duff & Phelps Credit Rating Company, except that if the electric distribution utility determines that a material change in the creditworthiness of the guarantor has occurred, the electric distribution utility may require the distribution customer to use a different guarantor.

3. Credit backed by the full faith and credit of the Federal Government.

Sec. 21. *A distribution customer must comply with all applicable requirements relating to the exchange of electronic data which the commission has set forth by rule, including completing all reasonable nondiscriminatory requirements for electronic interfaces between the distribution customer and the electric distribution utility to assure reliable distribution service.*

Sec. 22. *Once an electric distribution utility has determined, in accordance with section 19 of this regulation, that a distribution customer is qualified, the electric distribution utility shall:*

1. Execute a standard agreement with the distribution customer in an expeditious manner; and

2. No later than the date set by the commission by which the electric distribution utility must provide service to distribution customers, begin accepting service request forms from the distribution customer.

Sec. 23. *1. A service request form submitted by a distribution customer to an electric distribution utility must be in the standardized format that has been proposed by the electric distribution utility and approved by the commission.*

2. Within 1 business day after receiving a service request form from a distribution customer, an electric distribution utility shall provide an acknowledgment to the distribution customer that the electric distribution utility has received the service request form.

3. Within 5 business days after the date on which an electric distribution utility receives a service request form from a distribution customer, the electric distribution utility shall provide electronic notice of its approval or rejection of the request for service to the distribution customer which submitted the request, and, if the distribution customer is an alternative seller, the end-use customer on whose behalf the service was requested.

Sec. 24. *1. Upon receipt by a distribution customer which has submitted a service request form to an electric distribution utility of notification from the electric distribution utility that it has approved the request for service, the distribution customer shall determine,*

and directly schedule with the provider of the meter of the distribution customer, an appropriate date to make the switch in service. The distribution customer shall:

(a) Notify the electric distribution utility of the date on which the actual switch in service will occur; and

(b) No later than 3 business days after the date on which the distribution customer is switched, provide the electric distribution utility with a corresponding final meter reading.

2. Within 20 days after the date on which a distribution customer initially submits a service request to an electric distribution utility, the distribution customer shall notify the electric distribution utility of the progress of the distribution customer in scheduling a date on which to switch service. If a distribution customer fails to notify the electric distribution utility as required by this subsection, the electric distribution utility shall cancel the service request form of the distribution customer and a provider of last resort will be designated to provide the service to the distribution customer.

Sec. 25. 1. *An electric distribution utility shall reject a service request form from a distribution customer if:*

(a) The information provided in the service request form by the distribution customer is false incomplete or inaccurate in any material respect;

(b) The distribution customer is not a qualified distribution customer as required pursuant to section 19 of this regulation;

(c) The electric distribution utility makes a reasonable request to the distribution customer for additional information regarding the request for service and the distribution customer fails to respond to the request for information within 3 business days;

(d) The end-use customer does not have a physical connection or lacks other equipment necessary to enable the electric distribution utility to provide the service; or

(e) The provision of the service will impair the reliability and safety of the distribution system.

2. If the electric distribution utility rejects a service request form from a distribution customer, the electric distribution utility shall forthwith:

(a) Provide a full written explanation of the actions which the distribution customer must make before the electric distribution utility will approval the request; and

(b) Forward a copy of the written explanation to the commission.

3. A distribution customer whose service request form has been rejected by an electric distribution utility may resubmit another service request form for the service only after the deficiencies associated with the former request have been resolved.

Sec. 26. *An electric distribution utility shall resolve disputes pertaining to its denials of service request forms in accordance with the procedures for dispute resolution set forth in section 37 of this regulation.*

Sec. 27. *An electric distribution utility shall provide for the direct referral of end-use customers who call the electric distribution utility with inquiries regarding distribution or electric service to the independent end-use customer information center established by the commission.*

Sec. 28. 1. *An electric distribution utility shall accept requests for new physical connections from distribution customers and end-use customers who are eligible to order facilities or construction under the provisions of the tariff of the electric distribution utility that deals with line extensions.*

2. An electric distribution utility shall process requests for new physical connections received by the electric distribution utility on a nondiscriminatory basis in accordance with applicable provisions of the tariff of the electric distribution utility.

3. As used in this section, “new physical connections” means the installation of wires, lines or other distribution equipment necessary to physically connect, expand or change distribution facilities.

Sec. 29. *1. Upon the written request of a distribution customer, an electric distribution utility shall provide the distribution customer with access to information concerning the generic load profile of the electric distribution utility.*

2. Upon determining, pursuant to section 19 of this regulation that a distribution customer which is an alternative seller is qualified, an electric distribution utility shall provide the distribution customer with a listing of point of delivery identification numbers, addresses and current rate schedules to facilitate enrollment.

3. If requested by an end-use customer, an electric distribution utility shall provide any available account specific information, including 12 months of usage history, concerning the end-use customer to his distribution customer.

Sec. 30. *A distribution customer shall notify the electric distribution utility from which the distribution customer is receiving distribution services of any material change in its credit rating or financial condition, including whether the credit or security deposit of the distribution customer is adequate for the current level of service to the distribution customer.*

Sec. 31. *1. If the distribution service from the electric distribution utility to a distribution customer is terminated for any reason, the electric distribution utility shall return any security deposit, less any amounts owed for outstanding payments, paid by the distribution*

customer to the electric distribution utility. The electric distribution utility shall return the security deposit within 60 days after the date on which the distribution service is terminated.

2. Except when the distribution service to a distribution customer is terminated for nonpayment, the electric distribution utility shall pay interest to the distribution customer on its security deposit from the date of payment of the deposit through refund, with interest as calculated pursuant to NRS 704.655.

Sec. 32. *If the distribution service to an end-use customer from a distribution seller which is an alternative seller will be changed because of the termination of the relationship between the end-use customer and distribution customer:*

1. Except as otherwise provided in this subsection, the distribution customer shall, at least 5 days before the scheduled date of termination of the service, notify the electric distribution utility that the distribution customer will no longer be providing distribution service to the end-use customer. If the commission has suspended or revoked the license of the distribution customer to act as an alternative seller, the commission will notify the electric distribution utility of the termination in service at least 2 days before the scheduled date of termination of the service.

2. Upon the receipt of a notice of termination of service pursuant to subsection 1, an electric distribution utility shall determine whether another distribution customer has submitted a service request form to the electric distribution utility on behalf of the end-use customer whose service is being terminated. If the electric distribution utility receives a timely service request form from another distribution customer, the electric distribution utility shall switch the end-use customer to the new distribution customer on the date on which the service of the end-use customer from the former distribution customer is terminated.

3. *Upon the receipt of a notice of termination of service pursuant to subsection 1:*

(a) If the notice is from a distribution customer, the electric distribution utility shall notify the appropriate provider of last resort that the end-use customer whose service is being terminated will be added to the service of the provider of last resort on the scheduled date of termination of service if the electric distribution utility has not received a service request form from another distribution seller to provide service to the end-use customer at least 2 days before the scheduled date of termination; and

(b) If the notice is from the commission, the electric distribution utility shall notify the appropriate provider of last resort 2 days before the scheduled date of termination of service that the new end-use customer will be added to the service of the provider of last resort on the scheduled date of termination of service.

4. *On the date that service from a distribution customer to an end-use customer terminates, the electric distribution utility shall switch the service of an end-use customer to the provider of last resort if the electric distribution utility has not received a timely request from another distribution seller to provide service to the end-use customer.*

Sec. 33. *If an electric distribution utility intends to terminate distribution service to a distribution customer which is an alternative seller:*

1. *At least 5 days before the date on which the electric distribution utility intends to terminate service to the distribution customer, but in no event before the electric distribution utility notifies the distribution customer of the date of termination, the electric distribution utility shall notify the end-use customer that the electric distribution utility is terminating service to the distribution seller. The notice to the end-use customer must include:*

(a) The date on which the distribution service to the distribution customer will be terminated;

(b) The telephone number of the independent end-use customer information center established by the commission where the end-use customer may obtain information about alternative sellers and providers of last resort; and

(c) A statement informing the end-use customer that he must designate another alternative seller within 5 business days or a designated provider of last resort will be designated to provide the distribution service to the end-use customer for the minimum period established by the applicable rules and regulations of the commission governing the designated provider of last resort.

2. If the electric distribution utility does not receive a request for service from another distribution customer on behalf of an end-use customer who has been sent a notice of termination pursuant to subsection 1 within the 5-day period, the electric distribution utility shall, as soon as practicable, notify the provider of last resort that the end-use customer will be added to the service of the provider of last resort.

3. The electric distribution utility shall terminate service to the distribution customer on the date specified in the notice of termination provided to the end-use customer pursuant to this section and switch the service of the end-use customer to the new distribution customer or provider of last resort, as appropriate.

Sec. 34. *1. If an electric distribution utility schedules a planned outage, the electric distribution utility shall provide notice of the planned outage to all distribution customers who will be affected by the outage. The notice must be given no later than 1 business day after the date on which the electric distribution utility schedules the planned outage.*

2. If an electric distribution utility must reduce the loading of its distribution system, or any portion thereof:

(a) To ensure the safe and reliable operation of the system;

(b) To allow for system repairs; or

(c) For any other similar reason,

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3. If there is an unplanned outage, the electric distribution utility shall restore service in accordance with prudent utility practices.

Sec. 35. *An electric distribution utility shall maintain the ability to handle reports on outages and requests for repairs. The electric distribution utility shall provide all its distribution customers with a telephone number for the person or department within the electric distribution utility which is responsible for responding to telephone calls reporting outages or requesting repairs. The electric distribution utility shall allow a distribution customer to use this telephone number to forward calls regarding outages from end-use customers directly to the electric distribution utility.*

Sec. 36. 1. *An electric distribution utility shall handle all inquiries regarding outages and repairs from distribution customers and end-use customers in a nondiscriminatory manner and shall remedy reported outages and complete requested repairs as expeditiously as possible, consistent with prudent utility practices. Upon the request of a distribution customer or an end-use customer that has requested a repair, an electric distribution utility shall provide*

the distribution customer or end-use customer with all follow-up information regarding the completion of the repair.

2. An electric distribution utility may, in accordance with prudent utility practices, contact the distribution customer and end-use customer that reported the outage or requested the repair to obtain additional information necessary to remedy the outage or complete a requested repair, regardless of whether the outage or requested repair was reported by the distribution customer on behalf of the end-use customer or by the end-use customer directly.

Sec. 37. 1. Except as otherwise provided in this subsection, an electric distribution utility shall resolve any disputes arising under any provision of sections 2 to 37, inclusive, of this regulation between the electric distribution utility and a distribution customer in accordance with the procedures for dispute resolution set forth in this section. The procedures for dispute resolution set forth in this section do not apply to amendments to any filed tariffs or service agreements and disputes arising over such amendments and service agreements must be presented directly to the commission for resolution.

2. As promptly as practicable after an electric distribution utility learns of any dispute between the electric distribution utility and a distribution customer, the electric distribution utility shall refer the dispute to a senior representative of the electric distribution utility designated by the electric distribution utility and a senior representative of the distribution customer designated by the distribution customer for resolution of the dispute on an informal basis.

3. If the designated representatives of an electric distribution utility and the distribution customer are unable to resolve a dispute between the electric distribution utility and a distribution customer:

(a) Within 30 days after the dispute was referred to the representation; or

(b) Within such other period upon which the electric distribution utility and distribution customer agree,

FLUSH *the dispute must be submitted for resolution to the commission in accordance with the applicable rules and regulations of the commission governing the resolution of complaints or disputes by the commission.*