

ADOPTED REGULATION OF THE PUBLIC UTILITIES

COMMISSION OF NEVADA

LCB File No. R144-99

Effective December 3, 1999

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

AUTHORITY: §§1-10, NRS 703.025 and 704.980.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 10, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Affiliate” means an affiliate of a provider of a noncompetitive service.*

Sec. 4. *“Noncompetitive service” has the meaning ascribed to it in NRS 704.973.*

Sec. 5. *“Potentially competitive service” has the meaning ascribed to it in NRS 704.974.*

Sec. 6. *The provisions of sections 2 to 10, inclusive, of this regulation apply to providers of a noncompetitive service, and their affiliates, that seek to provide a potentially competitive service.*

Sec. 7. 1. *Before an affiliate may provide a potentially competitive service:*

(a) If, at the time of application, the affiliate through which the potentially competitive service will be provided does not exist, the provider of the noncompetitive service must file an application that complies with section 8 of this regulation with the commission for authorization for the affiliate to provide the potentially competitive service.

(b) If, at the time of application, the affiliate through which the potentially competitive service will be provided does exist, the provider of the noncompetitive service and the affiliate must jointly file an application that complies with section 8 of this regulation with the commission for authorization for the affiliate to provide the potentially competitive service.

2. If any document required to be included by sections 2 to 10, inclusive, of this regulation in an application filed by a provider of a noncompetitive service and its affiliate, if applicable, for authorization for the affiliate to provide a potentially competitive service is already filed in the official files of the commission, the provider and its affiliate will be considered to have satisfied the provision of sections 2 to 10, inclusive, of this regulation, which requires the document to be submitted if the provider and its affiliate specifically identify the document and request that the document be incorporated by reference into its application.

Sec. 8. 1. An application filed with the commission pursuant to section 7 of this regulation by a provider of a noncompetitive service and its affiliate, if applicable, for authorization for the affiliate to provide a potentially competitive service must contain:

(a) A description of each potentially competitive service that the affiliate will provide.

(b) Information, accompanied by prepared testimony, necessary to assist the commission in determining whether the provider of the noncompetitive service and its affiliate are in compliance with the requirements set forth in subsection 2 of NRS 704.978, including, without limitation:

(1) Copies of tariffs and other documents filed with the Federal Energy Regulatory Commission relating to transmission service;

(2) Copies of tariffs, service agreements and other documents filed with the commission that set forth the commitments made by the provider of the noncompetitive service to provide distribution services;

(3) Descriptions of each formal and informal dispute that has arisen relating to the transmission tariffs, distribution tariffs and commitments of the provider of the noncompetitive service to provide distribution services, including:

(I) An identification of the parties to the dispute;

(II) Copies of all correspondence and pleadings related to the dispute;

(III) A description of the resolution, if any, of the dispute; and

(IV) Citations to any orders relating to the dispute which have been issued by a court or regulatory body;

(4) Detailed explanations of what uses, if any, the affiliate will have for noncompetitive services during the first 5 years after the commission issues an order authorizing the affiliate to provide the potentially competitive service;

(5) An evaluation of whether the transmission facilities and distribution facilities owned by the provider of the noncompetitive service will be sufficient to satisfy all demands on the provider for the transmission and distribution of electricity for the benefit of customers in Nevada;

(6) If the evaluation provided pursuant to subparagraph (5) indicates that the transmission facilities and distribution facilities owned by the provider of the noncompetitive service will not be sufficient, a description of all plans to:

(I) Expand the transmission facilities and distribution facilities of the provider; and

(II) Prioritize the use and operation of those facilities to assure nondiscriminatory access to the transmission and distribution services; and

(7) For each noncompetitive service, other than transmission and distribution services, that is provided by the provider of the noncompetitive service, a description of:

(I) The service; and

(II) Each dispute that has arisen relating to the provision of the service, including any relevant documentation relating to the dispute and the resolution, if any, of the dispute.

(c) Information, accompanied by prepared testimony, necessary to assist the commission in determining whether the provider of the noncompetitive service and its affiliate are in compliance with paragraph (b) of subsection 1 of NRS 704.980, including, without limitation:

(1) A description of all financing that the affiliate will have, including the terms and sources of such financing.

(2) A description of all services, assets and other resources that the affiliate will directly or indirectly receive from, provide to or share with the provider of the noncompetitive service and other affiliates of the provider.

(3) A list of all officers and members of the board of directors of the provider of the noncompetitive service, its affiliate through which the potentially competitive service will be provided and all other affiliates of the provider. If, at the time of application, the affiliate through which the potentially competitive service will be provided does not exist, the provider of the noncompetitive service must include a list of the proposed officers and members of the board of directors of the proposed affiliate.

(4) A complete chart of the organization of the affiliate through which the potentially competitive service will be provided and of all other affiliates of the provider that provide a

potentially competitive service or noncompetitive service. If, at the time of application, the affiliate through which the potentially competitive service will be provided does not exist, the provider of the noncompetitive service must include a chart of the proposed organization of the proposed affiliate.

(d) Information, accompanied by prepared testimony, necessary to assist the commission in determining whether the provider of the noncompetitive service and its affiliate are in compliance with paragraph (c) of subsection 1 of NRS 704.980, including, without limitation:

(1) A description and, to the extent possible, a quantification of each advantage that the affiliate will have because of its affiliation with the provider of the noncompetitive service; and

(2) With respect to all assets, services and other resources that the affiliate will be obtaining from the provider of the noncompetitive service or any other affiliate of the provider, an evaluation of whether and to what extent a competing seller of the potentially competitive service will be able to obtain those assets, services and resources on similar terms.

(e) Information, accompanied by prepared testimony, necessary to assist the commission in determining whether the provider of the noncompetitive service and its affiliate are in compliance with paragraph (d) of subsection 1 of NRS 704.980, including, without limitation:

(1) The best estimate of the provider of the noncompetitive service and its affiliate, if applicable, of the dollar value and number of transactions that will be undertaken between affiliates providing the potentially competitive service and providers of a noncompetitive service; and

(2) A description of the structure of the management of the affiliate and an identification of the managerial personnel of the affiliate and of the personnel of the affiliate who will be responsible for ensuring that the affiliate is in compliance with:

(I) The applicable regulations of the commission concerning the relationship between a provider of a noncompetitive service and its affiliate providing a potentially competitive service; and

(II) Any other order of the commission authorizing the affiliate to supply the potentially competitive service.

FLUSH *If, at the time of application, the affiliate through which the potentially competitive service will be provided does not exist, the provider of the noncompetitive service must include a list of all proposed officers and members of the board of directors of the proposed affiliate and other personnel required to be identified pursuant to this subparagraph.*

2. The provision of information by a provider of a noncompetitive service and its affiliate, if applicable, in an application filed with the commission pursuant to this section and section 7 of this regulation will not preclude the commission from requiring supplemental information from the provider of the noncompetitive service and its affiliate if the commission determines that such supplemental information is necessary.

Sec. 9. *If an application for authorization for an affiliate to provide a potentially competitive service filed by a provider and its affiliate, if applicable, with the commission pursuant to sections 2 to 10, inclusive, of this regulation, is:*

1. Complete and includes the information required by section 8 of this regulation; and

2. Filed with the commission no later than 12 months before the date on which alternative sellers may begin providing potentially competitive services as prescribed by NRS 704.976,

FLUSH *the commission will issue a final order on the application no later than 6 months before the date on which alternative sellers may begin providing potentially competitive services. The*

commission will specify in its final order which potentially competitive service, if any, the affiliate may provide.

Sec. 10. 1. *If a provider of a noncompetitive service and its affiliate wish to modify an order by the commission authorizing the affiliate to provide a potentially competitive service so that the affiliate may provide a potentially competitive service:*

(a) Which was not included in the current order; or

(b) Which the commission declined to authorize in the current order,

FLUSH *the provider of the noncompetitive service and its affiliate must jointly submit an application to the commission, pursuant to sections 2 to 10, inclusive, of this regulation, for authorization for the affiliate to provide the additional service.*

2. A subsequent application submitted by a provider of a noncompetitive service and its affiliate pursuant to this section must include, in addition to the information required by sections 2 to 10, inclusive, of this regulation, a full explanation, supported by prepared testimony, as to why the commission should modify the current order.

3. The filing of an application to modify an order pursuant to this section does not affect the right of any alternative seller that is not affiliated with the provider of the noncompetitive service or its affiliate which filed the application to modify.