

LCB File No. T055-03

ADOPTED TEMPORARY REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA

This regulation has been filed with the Secretary of State, the date will be posted
when supplied by the agency.

Docket No. 00-10039

June 27, 2003

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

AUTHORITY: §§1-9, NRS 703.025 and 704.210

Section 1. Chapter 703 of NAC is hereby amended by adding thereto the provision set forth as section 2 of this regulation.

Sec. 2. NAC 703.680 is hereby amended to read as follows:

703.680 Discovery. (NRS 703.025, 704.210)

1. ~~[Except as otherwise provided in this section, the commission, the commission's staff, the presiding officer or any party of record may obtain discovery pursuant to the applicable provisions of the Nevada Rules of Civil Procedure.]~~ *In addition to the requirements of NRS 703.195 and NAC 703.2208 and 703.2508, the parties to a docket may conduct discovery through written data requests and oral depositions regarding any matter not privileged that is reasonably calculated to obtain relevant information for that docket. Data requests are a comprehensive vehicle for obtaining discovery and can encompass interrogatories, requests for admission, and requests for production of documents or inspection of property. Upon motion and opportunity for response, for good cause shown, the presiding officer may prohibit discovery, or restrict or modify the scope of discovery.*

2. ~~[Upon a motion by a party of record or by the person from whom discovery is sought and for good cause shown, the presiding officer may prohibit, restrict or modify the scope of the discovery.]~~ *Data requests, notices of deposition, objections and responses to discovery requests must be served upon the individual(s) at the contact number(s) or address(es) designated in the application or the petition for leave to intervene and may be sent by U.S. mail, overnight service, facsimile, or by electronic mail. Alternatively, a responding party is encouraged in a*

case with a significant volume of discovery responses to deposit them in a password protected website.

3. A Notice of Deposition must state the date, time and location of the deposition, and must be served at least ten business days prior to the deposition date. The deposing party may enumerate in the notice any specific documents the deponent should bring to the deposition.

4. A party may object in whole or in part to discovery requests within five business days after their receipt. Objections to discovery requests must be in writing and state the particularized grounds for the objection.

5. Unless otherwise ordered by the presiding officer or agreed to by the parties, or unless a timely objection has been made, responses to data requests must be received by the requesting party no later than ten business days after receipt of the request by the responding party. A responding party may notify a propounding party of the need for an additional five days response time if the responding party is experiencing technical or practical difficulties in providing a thorough response in the ten-day period provided herein. Responses to data requests should be submitted in the following quantities:

*Regulatory Operations Staff of the Commission: 2 copies to Carson City,
unless directed otherwise by the Regulatory Operations Staff of the
Commission in the underlying request*

Bureau of Consumer Protection: 2 copies to the attorney of record

Requesting Party: 1 copy

Alternatively, responses may be transmitted electronically by e-mail or deposited in a password protected website. If responses are transmitted electronically by e-mail or deposited in a password protected website, the Regulatory Operations Staff of the Commission and the Bureau of Consumer Protection shall receive in addition one hard copy each of the response within forty-eight hours of the due date for responses to data requests. The parties may agree to, or the presiding officer may direct on-site inspection if the response involves confidential or voluminous material. A party responding via on-site inspection must make reasonable efforts to facilitate the inspection.

6. The involved parties must confer in good faith to attempt to resolve discovery disputes prior to seeking resolution by the presiding officer. The presiding officer shall rule on all motions related to discovery.

7. The following general standards also apply to the extent available in the format requested: all responses that include computer files should be executable in the file format specified by the Regulatory Operations Staff of Commission at the time it is requested. Image files should be avoided. Nominally numeric fields, such as account numbers or negative values, should contain numeric data and not literal data. All spreadsheet computer files performing calculations should operate so that a changed input causes a change in output.

8. Prior to providing data request responses that contain commercially sensitive or trade secret information, a party may request that a confidentiality agreement be signed by specifying the grounds for the claim of confidential treatment of the information. If a confidentiality agreement is signed, the recipient will not publicly disclose that information unless ordered to by a court or by the Commission, or by the approval of the party requesting confidentiality.

9. The parties may agree in writing to alternative discovery procedures and timeframes. A party may pursue other forms of discovery as provided for in the Nevada Rules of Civil Procedure upon agreement with the party to whom that discovery is requested or with permission from the presiding officer upon good cause being shown.

10. If a responding party fails to respond adequately after an order from the presiding officer or the Commission concerning discovery, upon the motion of any party of record, the Commission may enter such order as the Commission deems just including, but not limited to, the dismissal of the application, or civil penalties in accordance with NRS703.380 against the non-responsive party.

11. Responses to motions for discovery shall be filed with the Commission and served upon all parties of record within five business days after the motion for discovery is filed with the Commission. Reply, if any, shall be filed within five business days after Responses are filed with the Commission.

12. ~~[3.]~~ Discovery must be completed at least 15 days before the date set for the hearing unless otherwise ordered by the presiding officer. Any party of record seeking to have this time shortened or lengthened must do so by a motion to the presiding officer. The presiding officer shall grant the motion for good cause shown.