

ADOPTED REGULATION OF THE PUBLIC

UTILITIES COMMISSION OF NEVADA

LCB File No. R047-02

Effective October 24, 2002

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

AUTHORITY: §§1-81, 89-92, NRS 703.025 and 704.210; §§82-88, NRS 703.025, 704.210 and 704.998.

Section 1. Chapter 703 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this regulation.

Sec. 2. *“Chairman” means the chairman of the commission.*

Sec. 3. *“Commenter” means a person who participates in a proceeding as a commenter pursuant to section 9 of this regulation.*

Sec. 4. *“Hearing officer” means a person who:*

1. Is appointed by the chairman pursuant to section 6 of this regulation to preside over and conduct hearings or other proceedings, or any portion thereof; and

2. Has the powers which are provided for in this chapter or which are otherwise conferred by the commission with regard to a particular hearing or other proceeding.

Sec. 5. *“Intervener” means a person granted leave to intervene by the commission pursuant to NAC 703.580 to 703.600, inclusive.*

Sec. 6. *1. The chairman may appoint one or more hearing officers to preside over and conduct hearings or other proceedings, or any portion thereof, in any matter pending before the commission in which hearing officers are authorized to act pursuant to NRS 703.130.*

2. *The chairman, in his discretion, may appoint an employee of the commission or a contractor of the commission to serve as a hearing officer.*

3. *Except as otherwise provided in this subsection, if the chairman appoints a hearing officer, the chairman retains the right, at any time, to revoke the appointment and to assume responsibility for presiding over and conducting the hearings or other proceedings or to designate another commissioner or hearing officer to preside over and conduct the hearings or other proceedings. The chairman shall not revoke the appointment of a hearing officer during the pendency of a proceeding without good cause.*

4. *If the chairman appoints a hearing officer to preside over and conduct any proceeding involving an application, petition, complaint, investigation or rule-making, after the close of all evidentiary hearings in the matter, the hearing officer shall file with the commission a proposed order that sets forth the findings and conclusions of the hearing officer and the reasons and bases for those findings and conclusions. The proposed order must be served on each party of record. Any party of record may file comments to the proposed order in the same manner that comments may be filed to a proposed order of the commission pursuant to NAC 703.785.*

5. *The decisions of a hearing officer are subject to appeal and review by the commission in the same manner that the decisions of a presiding officer are subject to appeal and review by the commission pursuant to the provisions of this chapter.*

6. *Upon review of a decision of a hearing officer, the commission may affirm or reverse the decision, in whole or in part, and may take any other just and reasonable action with regard to the decision, including, without limitation, declining to act on the decision on an interlocutory basis.*

Sec. 7. 1. In addition to the consumer sessions required by statute, the commission may schedule one or more consumer sessions in any proceeding before the commission, including, without limitation, any proceeding involving changes to schedules and rates, if the commission determines that such consumer sessions are in the public interest.

2. The commission will schedule each consumer session required by statute and each consumer session required by the commission for a time and place that is intended for the convenience of the public.

3. If a consumer session required by statute or a consumer session required by the commission is related to a filing made by a public utility, each public utility that is a party to the case shall:

(a) Provide notice of the time, place and purpose of the consumer session directly to each of its customers;

(b) Send such notice not less than 10 days before the scheduled date of the consumer session;

(c) Make the arrangements for and secure the location of the consumer session; and

(d) Be responsible for any costs incurred by the commission as a result of the consumer session.

4. If a consumer session required by statute or a consumer session required by the commission is a general consumer session on issues concerning public utilities, the commission will:

(a) Make the arrangements for and secure the location of the consumer session;

(b) Be responsible for any costs incurred as a result of the consumer session; and

(c) Determine which public utilities must provide notice of the consumer session, and each such utility shall:

(1) Provide notice of the time, place and purpose of the consumer session directly to each of its customers; and

(2) Send such notice not less than 10 days before the scheduled date of the consumer session.

Sec. 8. 1. *The commission will maintain one or more service lists for proceedings before the commission, including, without limitation, a service list that applies to all proceedings before the commission.*

2. Except as otherwise provided in subsection 3:

(a) A person may submit to the commission a written request to be placed on one or more service lists maintained by the commission. If a person makes such a request, the commission will send the person copies of all notices and orders issued by the commission or a presiding officer in all proceedings to which the service lists apply.

(b) The commission may require a person who is placed on a service list to submit to the commission, at reasonable intervals set by the commission, written requests to renew the person's placement on the service list.

3. The Nevada Press Association, or any successor in interest to that organization, will be placed permanently on the service lists maintained by the commission, unless it requests to be removed from the service lists.

Sec. 9. 1. *A person who is not a party to a proceeding may participate in the proceeding as a commenter if:*

(a) The person has a direct and substantial interest in the proceeding but the person does not desire to participate in the proceeding as an intervener; or

(b) The person does not have a direct and substantial interest in the proceeding to participate in it as an intervener but the person desires to file written comments concerning issues in the proceeding.

2. To participate in the proceeding as a commenter, the person must file with the commission a notice of intent to participate as a commenter. If the person files such notice, the commission will place the person on the service list maintained by the commission, and the person will receive from the commission copies of commission-issued pleadings in the proceeding.

3. Each person who participates in the proceeding as a commenter:

(a) Must be styled a “commenter” in all pleadings;

(b) Is not a party of record; and

(c) Is limited to filing written comments in the proceeding pursuant to subsection 4.

4. At the beginning of the hearing in the proceeding, each commenter may file with the commission written comments concerning issues in the proceeding. The written comments will be made part of the record of the proceeding, but the written comments will not be treated as evidence.

5. A commenter is not a party of record to the proceeding, and a commenter shall not take any action that only a party of record may take, including, without limitation, presenting or cross-examining witnesses, conducting discovery, filing a petition for reconsideration or rehearing or seeking judicial review of a decision of the commission.

6. If, during the pendency of the proceeding, a commenter claims to have a direct and substantial interest in the proceeding and desires to participate in the proceeding as an intervener, the commenter may file a petition for leave to intervene with the commission pursuant to NAC 703.580 to 703.600, inclusive. If the petition for leave to intervene is filed with the commission after the applicable period set forth in NAC 703.590, the petition must state a substantial reason for the delay as required by that section.

Sec. 10. 1. *In any contested case pending before the commission, a party or commenter or an authorized representative or attorney of a party or commenter shall not communicate, directly or indirectly, with a commissioner or a hearing officer regarding any substantive issues of fact or law that relate to the contested case, unless the communication:*

(a) Is part of a pleading filed and served in accordance with the provisions of this chapter; or

(b) Occurs during a formal hearing before the commissioner or the hearing officer.

2. The provisions of this section apply from the date on which the pleading or other document that commences the contested case is filed with the secretary until 15 calendar days after the date on which the commission issues a final order in the contested case or, if a petition for reconsideration is filed, until the date on which the commission issues the order on reconsideration.

3. As used in this section, “contested case” means every proceeding pending before the commission except:

(a) A rule-making proceeding conducted pursuant to NRS 233B.0395 to 233B.115, inclusive, whether the proceeding is commenced pursuant to NAC 703.546 or otherwise;

(b) A proceeding involving a petition for a declaratory order or an advisory opinion pursuant to NRS 233B.120 and NAC 703.825; or

(c) Any proceeding in which the commission is not required by law to conduct a hearing before determining any issue of fact or law, or both.

Sec. 11. 1. *All evidence offered in a proceeding, including, without limitation, the testimony of a witness, must be relevant.*

2. For the purposes of this section, evidence is “relevant” only if the evidence has any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence.

Sec. 12. 1. *Any party of record may file a motion to strike the testimony of a witness. The party must:*

(a) File the motion to strike, in writing, with the commission not later than 10 business days after the date on which the party is served with the prepared testimony of the witness pursuant to NAC 703.710 or not later than 3 business days before the date on which the witness testifies, whichever date occurs earlier, unless the presiding officer mandates a different time in a procedural order or at the prehearing conference; and

(b) Serve the motion to strike on each party of record within the same period.

2. Any party of record may file a response to the motion to strike. The party must:

(a) File the response with the commission not later than 3 business days after the date on which the party is served with the motion to strike, unless the commission’s procedural schedule for the proceeding provides a different time frame; and

(b) Serve the response on each party of record within the same period.

3. The party making the motion to strike may file a reply to the response. The party must:

(a) File the reply with the commission not later than 2 business days after the date on which the party is served with the response; and

(b) Serve the reply on each party of record within the same period.

4. If a party fails to file a motion to strike the testimony of a witness within the required time, the party shall be deemed to have waived any objection to the testimony of the witness, unless the party makes a showing of good cause.

Sec. 13. *1. If a party is entitled to rebuttal, the party may offer in its rebuttal only rebuttal evidence that directly explains, repels, counteracts or disproves facts offered in evidence by other parties of record who oppose the application, petition or complaint. The party may not offer any other evidence in its rebuttal.*

2. Upon its own motion, or upon the written motion of the commission's staff or any other party of record, the commission will or the presiding officer shall strike any evidence offered by a party in its rebuttal that does not comport with the requirements of this section.

Sec. 14. *In any proceeding before the commission, the parties to the proceeding may enter into a stipulation for the settlement of some or all outstanding issues in the proceeding. The stipulation:*

1. Must settle only issues relating to the instant proceeding; and

2. Must not seek relief that the commission is not otherwise empowered to grant.

Sec. 15. *As used in NAC 703.580 to 703.600, inclusive, unless the context otherwise requires, "association" means an organization, other than a for-profit corporation, partnership or limited-liability company, created to represent the interests of its members.*

Sec. 16. *Except as otherwise provided in NRS 704.885, to participate as a party in a proceeding for a permit to construct a utility facility, a person must file, as appropriate under*

NRS 704.885, a petition for leave to intervene as a party, a notice of intent to be a party or a statement of position of a person making a limited appearance as a party within 30 days after the date on which the public notice required by NRS 704.870 is published.

Sec. 17. NAC 703.010 is hereby amended to read as follows:

703.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 703.015 to 703.100, inclusive, *and sections 2 to 5, inclusive, of this regulation* have the meanings ascribed to them in those sections.

Sec. 18. NAC 703.035 is hereby amended to read as follows:

703.035 “Complaint” means a request for relief filed with ~~the~~:

1. The division of consumer complaint resolution as specified in NAC 703.621 ~~[, or with the]; or~~

2. The commission as specified in NAC 703.651 . ~~[or 703.860.]~~

Sec. 19. NAC 703.055 is hereby amended to read as follows:

703.055 “Motion” means a request for relief filed with the commission pursuant to NAC 703.550 ~~[.]~~ *or another specific regulation.*

Sec. 20. NAC 703.070 is hereby amended to read as follows:

703.070 “Party of record” *or “party”* means an applicant, *a* complainant, *a* petitioner, *a* respondent, ~~[counsel for]~~ the commission’s staff ~~[.]~~ *and its counsel*, the consumer’s advocate or an intervener . ~~[whose petition for leave to intervene has been granted by the commission.]~~

Sec. 21. NAC 703.075 is hereby amended to read as follows:

703.075 “Person” ~~[has the meaning ascribed to it in NRS 704.015.]~~ *means any of the following:*

1. A natural person.

2. Any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or unincorporated organization.

3. A government, a political subdivision of a government or an agency or instrumentality of a government or a political subdivision of a government.

Sec. 22. NAC 703.085 is hereby amended to read as follows:

703.085 “Pleading” means any application, petition, complaint, answer, ~~protest or~~ motion *or comment* filed with the commission in any proceeding.

Sec. 23. NAC 703.090 is hereby amended to read as follows:

703.090 “Presiding officer” means ~~the chairman of the commission or a~~ :

1. The chairman;

2. A commissioner designated by the chairman to preside over ~~a hearing~~ and conduct hearings or other proceedings, or any portion thereof; or

3. A hearing officer appointed by the chairman to preside over and conduct hearings or other proceedings, or any portion thereof, if the chairman designates the hearing officer as the presiding officer for the hearings or proceedings.

Sec. 24. NAC 703.097 is hereby amended to read as follows:

703.097 “Rebuttal ~~[]~~ *evidence*” means evidence offered by the applicant, petitioner or complainant which must directly explain, repel, counteract or disprove facts offered in evidence by *other* parties of record ~~opposing~~ *who oppose* the application, petition or complaint.

Sec. 25. NAC 703.115 is hereby amended to read as follows:

703.115 The commission ~~will and~~ *or the* presiding officer ~~shall~~ *may* allow deviation from the provisions of this chapter if:

1. The deviation would not adversely affect the substantial interests of the parties;
2. Good cause for the deviation appears; and
3. The person requesting the deviation provides a specific reference to each provision of this chapter from which deviation is requested.

Sec. 26. NAC 703.120 is hereby amended to read as follows:

703.120 Except as otherwise provided by law:

1. In computing any period prescribed or allowed by any regulation of the commission, the day of the act, event or default from or after which the designated period begins to run is not included. The last day of the period so computed is included, but if it is a Saturday, Sunday or legal holiday, the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.

2. ~~Whenever~~ *If* an act is required or allowed under any regulation of the commission, or any notice given thereunder, to be done within a specified period, the period will be extended by the commission *or the presiding officer*, for good cause *shown*, upon a motion made before the specified period expires.

Sec. 27. NAC 703.145 is hereby amended to read as follows:

703.145 A written communication , *pleading* or *other* document is considered officially received by the commission only if it is:

1. Filed at the commission's office in Carson City or Las Vegas and addressed to the secretary of the commission; or

2. Presented to the commission during a hearing.

Sec. 28. NAC 703.160 is hereby amended to read as follows:

703.160 1. ~~[If an authorization, expansion, reduction or curtailment of services, facilities or authority, increase in rates, fares or charges, or any change in regulations is filed by application or tariff filing, the]~~ *The* secretary shall publish ~~[a]~~ *public* notice of ~~[the application or tariff filing.]~~ *each filing or proceeding described in subsection 10.*

2. If the secretary determines that the ~~[proposal]~~ *filing or proceeding* will have a statewide effect, ~~[he]~~ *the secretary* shall have the *public* notice published ~~[at least]~~ once in ~~[six]~~ *four* or more newspapers of general circulation in this state, no two of which are published in the same county.

3. If the secretary determines that the ~~[proposal]~~ *filing or proceeding* will have an effect on a limited number of counties, ~~[he]~~ *the secretary* shall have the *public* notice published once in a newspaper of general circulation in each county affected. If there is no newspaper published in an affected county, ~~[then]~~ the secretary shall have the *public* notice published *once* in a newspaper *of general circulation* in an adjoining county.

4. The *public* notice must be an advertisement which is not less than 1 column inch by 3 inches, with a border on all sides, and must include ~~[:]~~, *as appropriate:*

(a) The ~~[applicant's]~~ name *of the applicant, complainant or petitioner* or the name of the agent for the applicant ~~[:]~~, *complainant or petitioner;*

(b) A brief description of the ~~[applicant's proposal;]~~ *purpose of the filing or proceeding;*

(c) ~~[Where the proposal]~~ *The location where the filing* is on file for the public ~~[; and]~~ *or the location and time for the proceeding; and*

(d) The date by which persons must file ~~[a protest or petition]~~ *comments or petitions* for leave to intervene with the commission.

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The *public* notice must be published prominently so that it is reasonably calculated to notify affected persons.

5. The secretary shall have the *public* notice published in the appropriate newspapers not less than 3 working days before the proposal *in the filing* becomes effective ~~[.]~~ *or the proceeding is held.*

6. The applicant, *complainant or petitioner* shall pay the cost of the publication.

7. ~~[For the convenience of the public, the secretary shall also have the notice]~~ *On a weekly basis, the commission will have published a summary of public notices concerning the filings and proceedings described in subsection 10. The summary of public notices will be* published in ~~[a designated]~~ *the Sunday edition of a newspaper of general circulation* in Carson City ~~[, but this publication is not a substitute for the publication required by subsections 2 and 3.]~~ *and such other newspapers as determined by the chairman.*

8. *If public notice of a filing or proceeding is published by the secretary pursuant to this section, the secretary's notice shall be deemed to be legally sufficient public notice of the filing or proceeding, even if public notice in the summary of public notices is deficient or fails to be published pursuant to this section.*

9. *If public notice of a filing or proceeding is published in the summary of public notices pursuant to this section, the public notice in the summary of public notices shall be deemed to be legally sufficient public notice of the filing or proceeding, even if the secretary's public notice is deficient or fails to be published pursuant to this section.*

10. *The provisions of this section apply to the following filings or proceedings:*

(a) An application or tariff filing involving any authorization, expansion, reduction or curtailment of services, facilities or authority, any increase in rates, fares or charges, or any change in regulations.

(b) A complaint filed with the commission pursuant to NAC 703.651.

(c) A petition.

(d) A prehearing conference.

(e) A workshop.

(f) A consumer session.

Sec. 29. NAC 703.203 is hereby amended to read as follows:

703.203 An application for a new subdivision or other development of land furnished to the commission as required by NRS ~~704.679~~ 704.6672 must include the following information in the application or as exhibits attached thereto:

1. A map showing all lines, valves and facilities of the proposed water or sewer system, the size of the system and specifications of the materials to be used.
2. A brief summary of applicable water rights.
3. Copies of all documents evidencing water rights and accompanying maps and the status of those rights.
4. A description of the source of the water, such as a spring, river, lake or underground water supply.
5. If the source of the water is on the surface of the ground, hydrological data defining the reliability of the source, and the capacity and ratings of any mechanical or storage facility, or both.

6. If the source of the water is below the surface of the ground, copies of well logs and pumping tests showing production as a function of draw down and time.

7. Copies of the latest tests for quality, both mineral and biological, made on the water and a comparison of the results with the standards established by the local government.

8. A brief description of the operation of the facilities proposed to maintain quality.

9. A brief description of proposed storage facilities, the storage capacity in gallons of each facility, and a comparison of the proposed storage capacity and the initial storage requirements. The method of calculating initial storage requirements must be clearly shown.

10. Evidence that the planned facilities to provide water for fire protection meet the requirements of the authority having jurisdiction in the service area.

11. Results of tests made to determine the flow of the water.

12. Evidence that all required permits have been granted and are in effect or that applications for all permits have been submitted and the anticipated dates of issuance.

13. A description of the proposed facilities for sewage treatment.

14. A comparison of the designed capacity of the facilities and the projected loads.

15. An explanation of whether and to what extent customers will directly or indirectly make contributions to the costs of the facilities of the proposed water or sewer system. The explanation must include an indication of whether the applicant intends to assess charges for the extension of any lines and whether the price of lots or units in the subdivision will reflect the cost of the developer's investment in the proposed system.

Sec. 30. NAC 703.2205 is hereby amended to read as follows:

703.2205 The provisions of NAC 703.2201 to 703.2481, inclusive, apply to all:

1. Public utilities which produce, deliver or furnish electricity or gas;

2. Telegraph and community antenna television companies; and
3. Public utilities which furnish water or sewer service, or both, and are not subject to the provisions of NAC 704.570 to ~~704.630,~~ 704.628, inclusive, under the jurisdiction of the commission.

Sec. 31. NAC 703.272 is hereby amended to read as follows:

703.272 *1.* An application for approval of new or revised depreciation rates must include:

~~1.~~ (a) For each account, the proposed depreciation rate and the existing depreciation rate which will be superseded.

~~2.~~ (b) A complete and accurate explanation of the circumstances and conditions relied upon as a basis for filing the application. This may include directives of the commission or any other regulatory or judicial body having jurisdiction over the premises.

~~3.~~ (c) Any prior action taken by the commission relative to the existing and proposed depreciation rates.

2. If the application for approval of new or revised depreciation rates is filed as part of a general rate application pursuant to NRS 704.110, the commission will issue an order granting or denying, in whole or in part, the new or revised depreciation rates in the application within 90 days after the date on which the certification required by NRS 704.110 is filed with the commission, or within 180 days after the date on which the general rate application is filed with the commission, whichever time is longer.

Sec. 32. NAC 703.290 is hereby amended to read as follows:

703.290 *1.* A petition for approval of a mediated or negotiated agreement submitted to the commission pursuant to 47 U.S.C. § 252 must include:

(a) The names of the parties to the agreement.

(b) A copy of the agreement.

(c) A summary of the major terms and conditions included in the agreement.

(d) Reference to any:

(1) Regulations or statutes; or

(2) Opinions or decisions of the Federal Communications Commission, the commission, federal or state courts, or other persons or entities,

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(e) A certificate of service demonstrating that ~~the~~ :

(1) *The* petition has been served upon the other party to the negotiations, the staff of the commission and the consumer's advocate ; and

(2) *Notice of the filing has been* provided to each person and entity on the list for notification established pursuant to NAC 703.296. *The notice provided to each such person and entity must include an Internet address of a website at which the contents of the filing may be inspected and a physical address and an electronic mail address to which a person or entity may send a request to be sent an electronic copy or a paper copy of the filing.*

(f) Any other information which the petitioner believes will be useful to the commission.

2. Not later than 10 days after the date on which a petition for the approval of the agreement is filed, the secretary of the commission shall issue a public notice and provide notice to each party and each person and entity on the list for notification established pursuant to NAC 703.296, that a petition for approval has been received and will be processed pursuant to the procedural schedule set forth in the notice.

3. The procedural schedule set forth in a notice issued pursuant to subsection 2 must specify:

(a) That any interested person or entity may file comments regarding the agreement not later than 30 days after the date on which the agreement was filed with the commission. The scope of such comments must be limited to whether:

(1) The agreement discriminates against any telecommunications carrier not a party to the agreement;

(2) The implementation of the agreement is not consistent with the public interest, convenience and necessity; or

(3) The agreement violates other requirements of the commission, including, but not limited to, any standards adopted by the commission relating to the quality of telecommunication service.

FLUSH Any comments filed pursuant to this paragraph must be, to the extent practicable, simultaneously served on the commission, parties to the agreement, the staff of the commission and the consumer's advocate.

(b) That parties to the agreement may file reply comments and legal arguments not later than 15 days after the date established by the commission for filing initial comments.

(c) The date on which any hearing will be conducted by the presiding commissioner to obtain further clarification or information regarding the proposed agreement.

4. The commission will issue a final order accepting or rejecting the agreement not later than 90 days after the date on which the petition for approval was filed with the commission.

5. The commission may reject an agreement, or any portion thereof, adopted by negotiation only if the commission finds that:

(a) The agreement, or portion thereof, discriminates against a telecommunications carrier not a party to the agreement; or

(b) The implementation of such agreement or portion is not consistent with the public interest, convenience and necessity.

Sec. 33. NAC 703.415 is hereby amended to read as follows:

703.415 The provisions of NAC 703.415 to 703.428, inclusive, *and section 16 of this regulation* apply to an application for a permit to construct a utility facility as defined in NRS 704.860. The requirements of NAC 703.415 to 703.428, inclusive, *and section 16 of this regulation* are in addition to other regulations pertaining to pleadings.

Sec. 34. NAC 703.417 is hereby amended to read as follows:

703.417 As used in NAC 703.415 to 703.428, inclusive, *and section 16 of this regulation*, unless the context otherwise requires, the words and terms defined in NRS ~~704.840~~ 704.834 to 704.860, inclusive, have the meanings ascribed to them in those sections.

Sec. 35. NAC 703.420 is hereby amended to read as follows:

703.420 A public utility which applies for a permit for construction of a utility facility must submit an application with the following information in the order listed:

1. A cover sheet which includes:
 - (a) The name of the applicant;
 - (b) The name of the proposed utility facility;
 - (c) The name, address and telephone number of a person who may be contacted for additional information;
 - (d) A one-paragraph abstract of the environmental statement;
 - (e) A copy of the public notice of the application as required by ~~subsection 5 of~~ NRS 704.870;
 - (f) An affidavit showing the date of public notice of the application; and

(g) The date before which interested persons must notify or petition the commission for intervention in the proceeding.

2. A summary which includes:

(a) A general description of the proposed utility facility;

(b) A general description of the location of the proposed utility facility with respect to the utility's certificated area of service; and

(c) The major conclusions of the environmental statement and areas of controversy.

3. A detailed description of the location of the proposed utility facility, a description of any associated equipment proposed for the facility and its location, diagrams of the structures involved in the proposed utility facility and appropriately scaled maps of the location of the proposed utility facility.

4. A description of the proposed utility facility over its expected life and a general description of the need for the proposed utility facility which includes, as appropriate:

(a) A forecast of the load of the utility;

(b) A projection of the utility's peak load;

(c) A schedule for the construction of the utility facility;

(d) The consequences of delaying construction of the utility facility;

(e) An analysis and comparison of the costs and benefits associated with the proposed utility facility and alternatives to construction; and

(f) A detailed list of the cost of the utility facility.

5. An environmental statement which includes an evaluation and comparison of all reasonable locations for the proposed utility facility, an evaluation and comparison of all reasonable designs for the proposed utility facility, an evaluation of the effect of a decision by

the commission to deny the application and maps of appropriate scale showing all reasonable locations. The evaluation of all locations and designs must include:

(a) A description of the environmental characteristics of the region in sufficient detail to provide an understanding of the environment existing when the application is made and the impact that each alternative would have on that environment. The data and analyses in the description must be commensurate with the significance of the anticipated impacts;

(b) An evaluation of the significant effects on the quality of the environment for humans, significant environmental impacts, means to mitigate adverse environmental impacts and, as appropriate, requirements for energy and natural or nonrenewable resources;

(c) A list of the reasons that the primary location and design selected by the utility are best suited for the utility facility;

(d) A list and summary of all studies that have been made of the environmental impact of the proposed utility facility; and

(e) The name, qualifications and professions of each person with primary responsibility for the preparation of the environmental statement and of each person who has provided comments or input in the preparation of the statement and a bibliography of materials used in the preparation of the environmental statement.

6. A list of all federal, state, regional and local agencies whose approval of the proposed utility facility is required and the types of permits required. The list must:

(a) Be correct as of the date the application is submitted to the commission;

(b) Include the status of each required approval;

(c) Be amended as any deletions or additions are required in the list because of changes in federal, state, regional or local laws; and

(d) Include copies of permits already obtained and copies of pertinent correspondence with the agencies which issue permits.

Sec. 36. NAC 703.422 is hereby amended to read as follows:

703.422 A person who is not a public utility and applies for a permit for construction of a utility facility must submit an application with the following information in the order listed:

1. A cover sheet which includes:
 - (a) The name of the applicant;
 - (b) The name of the proposed utility facility;
 - (c) The name, address and telephone number of the person who may be contacted for additional information;
 - (d) A copy of the public notice of the application required by ~~subsection 5 of~~ NRS 704.870.
 - (e) An affidavit showing the date of the public notice of the application; and
 - (f) The date before which interested parties must notify or petition the commission for intervention in the proceeding.
2. A summary which includes:
 - (a) A general description of the proposed utility facility;
 - (b) A general description of the location of the proposed utility facility; and
 - (c) Major points of interest contained in the environmental statement.
3. A detailed description of the proposed utility facility and its location, including a description of any associated equipment proposed for the facility and its location, diagrams of the structures involved in the proposed utility facility and appropriately scaled maps of the location of the proposed utility facility.

4. A list and summary of all studies that have been made of the environmental impact of the proposed utility facility.

Sec. 37. NAC 703.490 is hereby amended to read as follows:

703.490 1. According to the nature of the proceedings before the commission and the relationships of the parties to the proceedings, a party to a proceeding must be styled an applicant, ~~[petitioner,]~~ complainant, *petitioner*, respondent ~~[, intervener or protestant.]~~ *or intervener.*

2. A person applying in the first instance for any privilege, right or authorization from the commission must be styled an “applicant.”

3. A person who complains to the commission of any act by any person subject to the jurisdiction of the commission must be styled a “complainant.”

4. ~~[A person granted leave to intervene under NAC 703.580 to 703.600, inclusive, must be styled an “intervener.”~~

~~—5.]~~ A person, other than a complainant or an applicant, petitioning for affirmative relief must be styled a “petitioner.”

~~[6.—Any person, including a state or local governmental entity, who objects to an application, petition or other matter and who files a protest under NAC 703.605 or makes a statement at a hearing must be styled a “protestant.” The filing of a protest does not make the protestant a party of record.~~

~~—7.]~~

5. A person against whom any complaint is filed or a person who is the subject of any official investigation by the commission must be styled “respondent.”

6. A person granted leave to intervene pursuant to NAC 703.580 to 703.600, inclusive, must be styled an “intervener.”

Sec. 38. NAC 703.492 is hereby amended to read as follows:

703.492 1. The commission will provide notice of the pendency of any matter before the commission to the parties to the matter.

2. The notice of pendency will specify that the party may, within 10 days after the date of the notice, request a hearing on the matter.

3. If no request for a hearing is received by the commission, it will dispense with a hearing and act upon the matter unless it finds that a hearing is necessary ~~[]~~ *or required by statute.*

4. A customer of a public utility is entitled to receive notice of any hearing to which that utility is a party if he submits a written request to the secretary which identifies the utility. The customer will receive such notice for 6 months after the date of the request. After 6 months, the request lapses unless the customer submits to the secretary a written request for renewal.

Sec. 39. NAC 703.500 is hereby amended to read as follows:

703.500 ~~[1.—At]~~ *Except as otherwise provided by specific regulation, in* any proceeding before the commission ~~[, each]~~ :

1. Each party of record is entitled to enter an appearance, introduce *relevant* evidence, examine and cross-examine witnesses, make arguments, make and argue motions and generally participate in the proceeding.

2. ~~[The presiding officer shall acknowledge a protestant for the purpose of making a statement.]~~ *Each commenter is entitled to file written comments with the commission pursuant to section 9 of this regulation.*

Sec. 40. NAC 703.510 is hereby amended to read as follows:

703.510 1. A party *or commenter* may represent himself or may be represented by an attorney. Any other person who satisfies the commission or the presiding officer that he possesses the expertise to render valuable service to the commission, and that he is otherwise competent to advise and assist in the presentation of matters before the commission, may be allowed to appear on behalf of ~~[a party or parties.]~~ *one or more parties or may be allowed to file written comments on behalf of one or more commenters.*

2. An attorney at law appearing as counsel in any proceeding must be duly admitted to practice and in good standing before the highest court of any state. If an attorney is not admitted and entitled to practice before the supreme court of Nevada, he must associate with an attorney so admitted and entitled to practice.

3. Counsel for the commission's staff or his assistant shall represent the commission's staff in all proceedings before the commission.

Sec. 41. NAC 703.520 is hereby amended to read as follows:

703.520 1. Any representative wishing to withdraw from a proceeding before the commission must make a motion stating the reasons for the requested withdrawal.

2. The presiding officer may order the representative to serve the motion in writing upon the party *or commenter* whom he represents and upon all ~~[other]~~ parties of record.

Sec. 42. NAC 703.525 is hereby amended to read as follows:

703.525 1. Any person appearing in a proceeding *or filing written comments in a proceeding* must conform to recognized standards of ethical and courteous conduct required of practitioners before the courts of the state.

2. Contumacious conduct by any person at any hearing before the commission *or a presiding officer* is a ground for the exclusion of that person from that hearing and for summary suspension of that person from further participation in the proceedings.

3. Smoking is not permitted at any meeting or hearing of the commission.

Sec. 43. NAC 703.527 is hereby amended to read as follows:

703.527 As used in NAC 703.527 to 703.5282, inclusive:

1. “Information” means any books, accounts, records, minutes, reports, papers and property of a person which are in the possession of, or have been provided to, the commission.

2. ~~“Person” means a natural person, any form of business or social organization and any other legal entity, including, but not limited to, a corporation, partnership, association, trust, unincorporated organization, government, governmental agency or political subdivision of a government.~~

~~—3.]~~ “Protective agreement” means an agreement pursuant to which a person agrees not to disclose, or otherwise make public, the information requested to be confidential and which specifies the manner in which the confidentiality of the information is to be treated.

Sec. 44. NAC 703.5276 is hereby amended to read as follows:

703.5276 For information which has been determined to be confidential, the commission will ~~it~~ or *the* presiding officer shall, in addition to the other procedures set forth in NAC 703.527 to 703.5282, inclusive:

1. Require that the prepared testimony which contains the confidential information not be disclosed except as otherwise specified in a protective agreement or a protective order issued by the commission or presiding officer; or

2. Unless otherwise agreed upon by the parties involved, require that the portion of the prepared testimony of a person which may address the confidential information be submitted to the party who had requested that the information not be disclosed, before the date that the prepared testimony is to be submitted to the commission or other parties.

Sec. 45. NAC 703.5278 is hereby amended to read as follows:

703.5278 If the commission or presiding officer determines that a protective order should be issued with regard to the information designated as confidential, the commission will ~~it~~ or *the* presiding officer shall ~~it~~ issue a protective order which:

1. Describes generally the nature of the confidential information and the procedures to be utilized to protect the confidentiality of the information.

2. Specifies the period during which the disclosure of the information to the public will be withheld or otherwise limited.

3. Specifies the procedures to be used by each person during the pendency of the proceedings to ensure the confidentiality of the information.

4. Specifies the procedures for handling or returning the confidential information, as appropriate, upon the close of the proceedings or at the end of the period for which the information is to be treated as confidential.

5. Requires that the confidential information not be disclosed, except as:

(a) May be agreed upon by the parties pursuant to a protective agreement; or

(b) Otherwise directed by the commission or presiding officer.

6. Specifies the procedures to be used at the time of the evidentiary hearing to protect the confidentiality of the information.

7. Requires such other action as the commission or presiding officer deems appropriate under the circumstances.

Sec. 46. NAC 703.530 is hereby amended to read as follows:

703.530 1. Pleadings before the commission must be styled applications, petitions, complaints, answers, motions ~~and protests.~~ *or comments.*

2. If not otherwise prohibited by law and if substantial rights of the parties will not be prejudiced, the commission will *or the presiding officer shall* allow any pleading to be amended or corrected or any omission in the pleading to be cured.

3. The commission will ~~and a~~ *or the* presiding officer shall liberally construe the pleadings and disregard any defects which do not affect the substantial rights of any party.

Sec. 47. NAC 703.550 is hereby amended to read as follows:

703.550 1. Any request for an order by the commission, except for an order to permit intervention or an order to show cause, concerning any matter that has been assigned a docket number but has not been finally decided by the commission must be styled a “motion.”

2. A motion must be in writing unless made during a hearing. If a motion is made during a hearing, the motion may be written or oral. Oral motions must be timely made.

3. The presiding officer may order the parties to file one or more affidavits in support or contravention of a motion which has been made.

4. A motion must include citations of any authorities upon which the motion relies.

5. A written motion must be filed with the commission and served upon all parties of record.

6. The presiding officer may direct that any motion made at a proceeding *must* be reduced to writing ~~and~~ and filed and served in accordance with this section.

7. A motion that involves the final determination of a proceeding, including a motion to dismiss, will be considered by the commission at the time of the final decision and order, unless the presiding officer or commission determines that an expedited ruling would be in the public interest.

8. The presiding officer may rule on any motion made at a hearing which does not constitute a final determination of the proceeding.

9. A written motion , other than one made during a proceeding , must be served not later than 10 days before the date set for the hearing unless a different time is specified by the presiding officer ~~[]~~ *or by specific regulation.*

10. Motions filed by different parties of record but involving the same point of law may be set for hearing at the same time.

11. ~~[For the purpose of this]~~ *As used in this* section, “party of record” includes all persons who have filed petitions for leave to intervene which are pending at the time a motion is to be filed or served.

Sec. 48. NAC 703.555 is hereby amended to read as follows:

703.555 *Except as otherwise provided by a specific regulation:*

1. Any party of record against whom a motion is directed may file a response to the motion. A response must be in writing unless made during a hearing. If made during a hearing, a response may be written or oral.

2. A response that is required to be in writing pursuant to subsection 1 must be:

(a) Served upon each party of record.

(b) Filed with the commission no later than 7 days after receipt of service of the motion, unless otherwise directed by the presiding officer.

3. A party of record who:

- (a) Directs a motion against another party of record; and
- (b) Receives a response to that motion pursuant to subsection 1,

FLUSH may file a reply to the response. A reply filed pursuant to this subsection must be in writing unless made during a hearing. If made during a hearing, a reply may be written or oral. If a party to whom this subsection applies decides not to file a reply to the response, that party shall notify the commission of the decision so that the commission *or presiding officer* may decide the motion on the basis of the pleadings which have already been filed.

4. A reply that is required to be in writing pursuant to subsection 3 must be:

- (a) Served upon each party of record.
- (b) Filed with the commission no later than 7 days after receipt of service of the response, unless otherwise directed by the presiding officer.

5. If a party of record files a reply to a response pursuant to subsection 3, the commission will *or the presiding officer shall* consider only those portions of the reply that address directly matters set forth in the response.

Sec. 49. NAC 703.560 is hereby amended to read as follows:

703.560 1. Pleadings must:

- (a) Be properly titled.
- (b) Be signed in ink by each party or ~~[an authorized person.]~~ *commenter or, if represented, by the authorized representative or attorney of each party or commenter.*
- (c) Include the name and address of each party *or commenter* and, if represented, the name, address and telephone number of the ~~[party's]~~ authorized representative or attorney ~~[]~~ *of each party or commenter.*

(d) Except an initial pleading, clearly identify the proceeding by title and docket number.

(e) Set forth a clear and concise statement of the matters relied upon as a basis for the action or relief requested and an appropriate prayer.

(f) Be typewritten, printed or reproduced on good quality white paper, which is approximately 8 1/2 by 11 inches in size. Any exhibit or appendix accompanying the pleading must be folded to this size. Information must be presented on only one side of the paper and must be double spaced, except for footnotes or quotations which are indented. All copies must be clear and permanently legible.

2. A pleading initiating a new proceeding must have space for the docket number.

3. Regardless of any error in the designation of a pleading, the commission will *or the presiding officer shall* accord the pleading its true status in the proceeding in which it is filed.

4. A signature on the pleading constitutes a representation that:

(a) The person signing the pleading has read the pleadings;

(b) To the best of his knowledge, there are good grounds to support the pleading;

(c) The information in the pleading is true to the best of his knowledge and belief; and

(d) The pleading is not filed solely to delay the proceeding.

5. If a person filing a pleading desires a hearing on the matter, a request for a hearing must be stated in the pleading.

Sec. 50. NAC 703.565 is hereby amended to read as follows:

703.565 *1.* Except as otherwise provided in this section, the original and ~~nine~~ *15* legible copies of all pleadings must be filed with the commission.

2. If a written ~~protest~~ *comment* is made, only the original is required to be filed.

3. The presiding officer may require ~~the parties~~ *a party or a commenter* to file additional copies if needed.

Sec. 51. NAC 703.580 is hereby amended to read as follows:

703.580 **1.** Any person who claims to have a direct and substantial interest in a proceeding and desires to participate in it as an intervener must file a petition *for leave to intervene* with the commission requesting an order permitting the intervention.

2. *A person has a direct and substantial interest in a proceeding if:*

(a) A statute explicitly confers on the person a right to intervene; or

(b) The person claims an interest relating to the property or transaction which is the subject of the proceeding and the person is so situated that the disposition of the proceeding will, as a practical matter, impair or impede the ability of the person to protect that interest, unless the person is adequately represented by existing parties.

3. *A person does not have a direct and substantial interest in a proceeding if the person claims an interest that is:*

(a) Based on a speculative business or marketing plan; or

(b) Based solely on a person's involvement in a proceeding in another unrelated docket.

Sec. 52. NAC 703.585 is hereby amended to read as follows:

703.585 Except as otherwise provided in NAC 703.692, a petition for leave to intervene must be in writing and set forth the following:

1. The title and docket number of the proceeding in which leave to intervene is sought;
2. The name and address of the petitioner and, if represented, the name, address and telephone number of his attorney or other authorized representative;

3. A clear and concise statement of the direct and substantial interest of the petitioner in the proceedings ~~[a]~~ *and, if the petitioner is an association, all information that is necessary for the petitioner to satisfy the requirements set forth in NAC 703.595;*

4. The manner in which the petitioner will be affected by the proceedings;

5. A statement as to whether the petitioner intends to present evidence in the proceeding;
and

6. If affirmative relief is sought, a description of the desired relief and the basis for that relief.

Sec. 53. NAC 703.595 is hereby amended to read as follows:

703.595 1. If ~~[a]~~ *the petitioner is a person other than an association and the* petition for leave to intervene shows that the petitioner has a direct and substantial interest in the subject of the proceeding, or any part of it, and the intervention would not unduly broaden the issues, the commission will or the presiding officer may grant leave for the petitioner to intervene or otherwise to appear in the proceeding with respect to the matters set forth in the petition and subject to such reasonable conditions as may be prescribed by the commission or presiding officer.

2. *If the petitioner is an association and:*

(a) The petition for leave to intervene shows that two or more members of the association have a direct and substantial interest in the subject of the proceeding, or any part of it;

(b) The petitioner demonstrates, through its charter, a contract or some other document, that the purpose of the association is directly related to the subject of the proceeding and that the association is authorized to represent its members in the proceeding; and

(c) The intervention would not unduly broaden the issues,

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the commission will or the presiding officer may grant leave for the petitioner to intervene or otherwise to appear in the proceeding with respect to the matters set forth in the petition and subject to such reasonable conditions as may be prescribed by the commission or presiding officer.

3. If it appears during the proceedings that an intervener has no direct or substantial interest in the proceeding *or otherwise does not satisfy the requirements to intervene in the proceeding*, and that the public interest does not require his further participation, the commission will or *the* presiding officer shall dismiss the intervener from the proceeding.

Sec. 54. NAC 703.610 is hereby amended to read as follows:

703.610 1. All documents required to be served on a party by any other party ~~may~~ *must* be served ~~in person or by~~ *in one of the following ways:*

(a) In person.

(b) By mail. If the service is by mail, the service is complete when a true copy of the document, properly addressed and stamped, is deposited in the United States mail.

2. After the commencement of a proceeding, a copy of each pleading to be filed with the commission must be served by the pleading party on every other party of record. If a party of record is represented by an authorized representative or an attorney, service must be made on that representative or attorney. Service must be made before or concurrently with the filing of the pleading with the commission.

3. Upon the advance request of another party, a party serving a document shall telephone the requesting party when the document is ready to be served so that it may be accepted personally by the requesting party in lieu of service by mail.

Sec. 55. NAC 703.615 is hereby amended to read as follows:

703.615 There must appear on all documents required to be served an acknowledgment of receipt of service or the following certificate:

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding (by delivering a copy thereof in person to) (by mailing a copy thereof, properly addressed, with postage prepaid to)

Dated at, this(day) of(month) of(year)

.....

Signature

Sec. 56. NAC 703.660 is hereby amended to read as follows:

703.660 1. In addition to complying with the requirements of NRS 233B.121 for a notice of hearing *to the parties* in a contested case, the commission will ~~include~~ :

(a) Provide notice to the public by publication pursuant to this section; and

(b) Include the words “notice of hearing” in ~~any such notice.~~ *the notice provided to the parties and to the public.*

2. The secretary shall file or cause to be filed an affidavit of publication with the commission.

3. The ~~commission will give such a notice by publication in the following manner:~~

~~(a) The~~ notice *of hearing* will be published in an advertisement of at least 1 column inch by 3 inches, with a border on all sides, in newspapers selected as follows:

~~(1)~~

(a) If the secretary determines that the subject matter of the hearing will have a statewide effect, the *secretary shall have the* notice ~~[will be published at least]~~ *of hearing published* once in ~~[six]~~ *four* or more newspapers of general circulation ~~[, which are published]~~ in this state, no two of which are published in the same county.

~~[(2)]~~

(b) If the secretary determines that the subject matter of the hearing will have an effect on a limited number of counties ~~[only,]~~, the *secretary shall have the* notice ~~[will be]~~ *of hearing* published once in a newspaper of general circulation ~~[published]~~ in each county ~~[where affected members of the public reside.]~~ *affected*. If there is no newspaper published in ~~[a county where affected members of the public reside.]~~ *an affected county*, the *secretary shall have the* notice ~~[will be]~~ *of hearing* published *once* in a *newspaper of general circulation in an adjoining* county. ~~[adjacent to the county.]~~

~~—(3) A]~~

(c) *On a weekly basis, the commission will have published a summary of notices of hearings. The* summary of ~~[the newspaper]~~ notices *of hearings* will be published in the Sunday edition of a newspaper of general circulation in Carson City ~~[. The summary is not a substitute for the notice required by subparagraph (1) or (2) of paragraph (a).~~

~~—(b) The]~~ *and such other newspapers as determined by the chairman.*

4. *In addition to publication of the notice of hearing, the* commission will ~~[also]~~ mail a copy of the notice of hearing to the clerk of each county or city where affected members of the public reside and to other interested persons.

~~[4.]~~ 5. The commission will serve *the* notice of ~~[a]~~ hearing on the parties of record and publish the notice at least 10 days before the time set for the hearing.

~~[5-]~~ 6. A copy of the notice *of hearing* will be posted at the commission's principal office at least 3 days before the date set for the hearing.

7. *If the notice of hearing is published by the secretary pursuant to this section, the secretary's notice of hearing shall be deemed to be legally sufficient public notice of the hearing, even if notice of the hearing in the summary of public notices is deficient or fails to be published pursuant to this section.*

8. *If the notice of hearing is published in the summary of public notices pursuant to this section, the notice of hearing in the summary of public notices shall be deemed to be legally sufficient public notice of the hearing, even if the secretary's notice of the hearing is deficient or fails to be published pursuant to this section.*

Sec. 57. NAC 703.667 is hereby amended to read as follows:

703.667 If the commissioner designated by the chairman ~~[of the commission]~~ to preside over a hearing objects to the designation ~~[,]~~ *and the chairman does not appoint a hearing officer to preside over the hearing in lieu of the commissioner,* the commission will hear the matter and issue a decision thereon.

Sec. 58. NAC 703.675 is hereby amended to read as follows:

703.675 If ~~[an applicant, petitioner or complainant]~~ *a party, other the commission's staff or the consumer's advocate,* fails to appear at the time and place set for *a prehearing conference or hearing* ~~[,]~~ *without prior notification to the commission or the presiding officer,* the commission ~~[may]~~ *will or the presiding officer shall* dismiss the ~~[petition, application or complaint]~~ *party,* with or without prejudice, ~~[or may,]~~ *unless the commission or presiding officer,* upon good cause shown, ~~[recess]~~ *recesses* the hearing to a future date ~~[to be set by the commission]~~ to enable the ~~[applicant, petitioner or complainant]~~ *party* to attend.

Sec. 59. NAC 703.685 is hereby amended to read as follows:

703.685 *Except as otherwise provided by specific regulation:*

1. All testimony to be considered by the commission ~~[it]~~ *or presiding officer at* a formal hearing must be sworn testimony , except for matters of which official notice is taken or matters entered by stipulation.

2. Before testifying ~~[i]~~ *at the hearing,* each witness shall declare, under oath or affirmation, that the testimony ~~[he]~~ *the witness* is to give at the hearing will be the truth, the whole truth and nothing but the truth.

3. At the hearing, each party may cross-examine an opposing witness in accordance with NRS 233B.123. After cross-examination of the witness, redirect examination of the witness is limited to matters raised during cross-examination. After redirect examination of the witness, recross-examination of the witness is limited to matters raised during redirect examination.

Sec. 60. NAC 703.695 is hereby amended to read as follows:

703.695 1. Applicants, petitioners or complainants may present their evidence first at a hearing. Then any parties of record opposing the application, petition or complaint may present their evidence. The presiding officer shall designate the stage of the proceeding at which each intervener ~~[, protestant]~~ or member of the commission's staff may be heard. Evidence must be received in the following order unless the presiding officer determines that a special circumstance requires a different order:

(a) Upon an application or petition:

- (1) Applicant or petitioner;
- (2) Commission's staff;
- (3) Interveners; and

- (4) Rebuttal by the applicant or petitioner.
- (b) Upon a complaint:
 - (1) Complainant;
 - (2) Respondent;
 - (3) Commission's staff;
 - (4) Interveners; and
 - (5) Rebuttal by complainant.
- (c) Upon a complaint by the commission or an order to show cause:
 - (1) Commission's staff;
 - (2) Respondent;
 - (3) Interveners; and
 - (4) Rebuttal by commission's staff.

2. ~~[Witnesses]~~ *In addition to any cross-examination by the parties pursuant to NAC 703.685, witnesses* may be cross-examined by the ~~[opposing parties, by members of the commission,]~~ *presiding officer, any commissioner,* the deputy commissioner ~~[]~~ *and the* administrative assistants and legal counsel for the commission.

3. If there is more than one applicant, petitioner or complainant, the witnesses of all applicants, petitioners or complainants may present direct testimony on an issue before any of these witnesses may be cross-examined on that issue, unless otherwise ordered by the presiding officer.

4. If two or more matters are set for hearing at the same time and place, the matter having the lowest docket number will be heard first, unless the presiding officer directs a different order for the convenience of the parties.

Sec. 61. NAC 703.700 is hereby amended to read as follows:

703.700 1. A request by a party of record for an order for the appearance of a witness at any designated place of hearing or for the production of a book, paper or document must be made in the form of a written motion filed with the commission or presiding officer.

2. A motion for an order to compel the production of a book, paper or document must set forth the reasons which support the issuance of the order and must identify, as clearly as possible, the book, paper or document desired.

3. If the motion is granted, the commission will issue the order or the presiding officer shall issue the order on behalf of the commission. Where appropriate, the issuance of the order may be conditioned upon an advancement by the moving party of the reasonable cost of the production of books, papers or documents.

4. The commission will or the presiding officer shall, upon its or his own initiative or upon a written request by the party to whom the order is directed, quash or modify the order if it is determined to be unreasonable or oppressive.

5. The commission or presiding officer may, upon its or his own initiative , issue an order requiring the attendance and testimony of witnesses and the production of a book, paper, document or other tangible thing.

Sec. 62. NAC 703.710 is hereby amended to read as follows:

703.710 1. At the direction of the presiding officer, or as provided for by regulation, a party to a proceeding shall submit a copy of prepared testimony and accompanying exhibits to be presented at any hearing to the commission and to each party of record. If the presiding officer directs any party to submit prepared testimony and accompanying exhibits, the presiding officer shall direct every party of record desiring to present direct testimony at the hearing to submit

prepared testimony and accompanying exhibits to the commission and each party of record to the proceeding before the date of the hearing. Unless otherwise specified, testimony of an applicant, petitioner or complainant must be filed with the commission and received by each party of record no later than 10 business days before the hearing. Testimony of all other parties must be filed with the commission and received by each party of record no later than 3 business days before the hearing. Any rebuttal *evidence* must be submitted to the commission and to each party of record at least 3 days before it is offered at the hearing unless the presiding officer allows a later submission.

2. An application filed for an adjustment in rates must be accompanied by the applicant's prepared testimony at the time of filing. If the presiding officer so orders, additional copies of the applicant's prepared testimony must be provided. If the certification required by NRS 704.110 is filed, any additional prepared testimony must accompany the certification.

3. After delivery of the prepared testimony to the commission, amendments to it may be made upon approval of the commission or presiding officer.

4. Unless otherwise directed by the presiding officer, prepared testimony must be supported by a signed affirmation by the witness and submitted to the commission as an exhibit. If circumstances so require, prepared testimony may be read into the record by the witness upon direct examination. The admissibility of prepared testimony will be determined according to the provisions of this chapter governing oral testimony.

Sec. 63. NAC 703.752 is hereby amended to read as follows:

703.752 *1.* The commission or the presiding officer may, in the course of a proceeding and before entering a decision or a recommended decision, issue an appropriate written interim order.

2. An interim order is not subject to exceptions or petitions for rehearing, reconsideration or reargument, but any ~~[part]~~ *party* of record aggrieved by the interim order may file a written motion to set aside, stay or modify the order.

Sec. 64. NAC 703.765 is hereby amended to read as follows:

703.765 The commission *or presiding officer* may, following the filing of briefs or upon contested motions, set the matter for oral argument upon 10 days' notice to each party of record, unless the commission *or presiding officer* considers a shorter time advisable.

Sec. 65. Chapter 704 of NAC is hereby amended by adding thereto a new section to read as follows:

The commission may permit deviation from any provision of this chapter if:

1. *Good cause appears; and*
2. *The commission finds that the deviation is in the public interest and is not contrary to statute.*

Sec. 66. NAC 704.455 is hereby amended to read as follows:

704.455 The provisions of NAC 704.455 to ~~[704.467,]~~ *704.465*, inclusive, apply to all persons under the jurisdiction of the commission who are engaged in the intrastate transportation of gas, including liquefied petroleum gas.

Sec. 67. NAC 704.518 is hereby amended to read as follows:

704.518 1. A utility which supplies natural gas may file with the commission a schedule to be applied to generating, industrial and large commercial customers served by the utility. The schedule:

(a) Must set forth the terms and conditions of service and the range of rates, or the mechanisms pursuant to which such rates may be determined; and

(b) May include different rates for customers within the same class.

2. A utility may provide service to a generating, industrial or large commercial customer pursuant to a schedule filed pursuant to subsection 1 if the customer notifies the utility in writing in a manner acceptable to the utility that the customer wishes to be billed pursuant to the schedule and the customer has demonstrated to the utility that:

(a) The customer is capable of using a fuel other than natural gas; or

(b) A bona fide alternative to purchasing service from the utility is available to the customer.

3. If a utility which seeks to transport natural gas for or sell natural gas to a generating, industrial or large commercial customer:

(a) Does not have a schedule approved by the commission on file with the commission pursuant to subsection 1;

(b) Seeks to charge a rate that is outside of the limits established by the schedule of the utility approved for transporting natural gas for or selling natural gas to a generating, industrial or large customer; or

(c) Seeks terms and conditions of service outside those set forth in the schedule of the utility approved for transporting natural gas for or selling natural gas to a generating, industrial or large commercial customer,

FLUSH the utility shall file with the commission an application for the approval of a contract for special services between the utility and the generating, industrial or large commercial customer. A contract for special services must specify the method, terms, conditions and rates by which the services are to be rendered to the customer. A utility shall not provide service to a generating, industrial or large customer pursuant to a contract of special services until the contract is approved by the commission.

4. A utility may provide service to a generating, industrial or large commercial customer pursuant to a contract for special services if the customer notifies the utility in writing in a manner acceptable to the utility that the customer wishes to be billed pursuant to such a contract and the customer has demonstrated to the utility that:

- (a) The customer is capable of using a fuel other than natural gas; or
- (b) A bona fide alternative to purchasing service from the utility is available to the customer.

5. The rates and charges under a schedule or a contract for special services filed pursuant to this section must be established by the utility which supplies natural gas after consultation with each affected customer. The utility shall consider the value to the customer of using natural gas as opposed to using an alternative fuel and the cost to the utility of providing the service.

6. Filings, pursuant to NAC 704.518 to 704.528, inclusive, are exempt from the provisions of NRS ~~704.080, 704.090,~~ 704.100 and 704.110, except that any tariff, schedule or contract for special services that is filed is subject to the provisions of NRS 704.100 and 704.110 governing the time in which the commission must take action on such filings.

7. As used in this section:

(a) “Bona fide alternative” means an option available to a customer:

- (1) Which is economically and operationally feasible; and
- (2) For which the cost to the customer to bypass the system of the utility is less than the marginal cost needed for the utility to serve that customer.

(b) “Contract for special services” means a contract which is filed by a utility in lieu of a schedule and which specifies the methods, terms, conditions and rates by which services are to be rendered to a generating, industrial or large commercial customer.

Sec. 68. NAC 704.531 is hereby amended to read as follows:

704.531 As used in NAC 704.531 to ~~704.538,~~ 704.537, inclusive, unless the context otherwise requires:

1. “Operator” means a person who operates one or more systems under common ownership and control, with a combined capacity to serve 10 or more users in a contiguous area.

2. “Reporting period” means January 1 through December 31 of the year preceding the filing of an annual report.

3. “System” means a network of pipes, valves, regulators, meters, containers and their appurtenances, and other physical facilities used by an operator for the distribution of liquefied petroleum gas.

Sec. 69. NAC 704.536 is hereby amended to read as follows:

704.536 1. An operator shall not charge a price for liquefied petroleum gas which exceeds his average inventory price for the billing period.

2. In addition to the price charged for liquefied petroleum gas, an operator may assess a charge for owning, maintaining, and operating the system which does not exceed the lowest residential base tariff general rate for natural gas in effect during the billing period or any other general rate established by the commission.

3. With the consent of the commission, an operator may adopt an alternative method to recover the charge for owning, maintaining, and operating the system if the operator submits an application for a rate adjustment and demonstrates that such an adjustment is just and reasonable. Both the application and the procedure must be substantially similar to that required for small water and sewer facilities in NAC 704.570 to ~~704.630,~~ 704.628, inclusive, and must be approved by the commission.

4. A customer is entitled to a refund of any overcharge. The operator shall refund the amount of the overcharge plus interest as established by the commission pursuant to NRS 704.655 from the date the overcharge was paid by the customer. The refund must, at the election of the operator, be made by cash payment or by a reduction in the next billing after the overcharge is discovered.

5. As used in this section, “average inventory price” means the total cost of liquefied petroleum gas available for sale, divided by the amount of liquefied petroleum gas available for sale as calculated for each billing period. For the purpose of this section, the liquefied petroleum gas available for sale is the amount on hand at the beginning of the operator’s billing period, plus the amount of liquefied petroleum gas purchased by the operator during that period.

Sec. 70. NAC 704.570 is hereby amended to read as follows:

704.570 As used in NAC 704.570 to ~~704.630,~~ 704.628, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.571 to 704.574, inclusive, have the meanings ascribed to them in those sections.

Sec. 71. NAC 704.575 is hereby amended to read as follows:

704.575 The provisions of NAC 704.570 to ~~704.630,~~ 704.628, inclusive, apply to public utilities whose rates are subject to the jurisdiction of the commission as set forth in NRS 704.095. To determine whether a public utility is subject to the provisions of NRS 704.095, a public utility that serves 3,000 or fewer persons shall be deemed to include a public utility that serves 3,000 or fewer service connections.

Sec. 72. NAC 704.585 is hereby amended to read as follows:

704.585 The commission or its staff may request a utility applying for a rate increase to submit information in addition to that specifically required in NAC 704.570 to ~~704.630,~~ **704.628**, inclusive.

Sec. 73. NAC 704.600 is hereby amended to read as follows:

704.600 1. When requested by a utility, the commission will consider a rate surcharge to finance large additions or improvements to a plant.

2. In determining whether a surcharge should be authorized, the commission will consider:

- (a) The necessity of the additions or improvements;
- (b) The size, in terms of capital requirements, of the additions or improvements; and
- (c) The availability of other methods of financing.

3. The commission may make such amendments, restrictions or modifications in approving the surcharge as the public interest may require. For the purposes of rate making, all facilities of the utility that are funded by a surcharge will be considered to be a contribution in aid of construction. A rate surcharge will not be authorized unless the utility acknowledges in a written statement to the commission that the value of the additions or improvements to a facility will not be considered in determining the fair market value of the utility's entire facility.

4. Any money collected by a public utility subject to the provisions of NAC 704.570 to ~~704.630,~~ **704.628**, inclusive, pursuant to a rate surcharge authorized by the commission must be deposited in an account separate from the utility's other money. The account must be established as a trust account in a recognized bank, brokerage house, escrow or title company. The trust document must be reviewed and approved by the commission before the trust document may be executed. The money held in trust must be deposited in an interest-bearing account and must be

federally insured. A copy of all statements identifying all deposits and withdrawals must be provided to the staff upon receipt of the statements by the utility.

5. The procedure for withdrawals from the account must be authorized by the commission.

Sec. 74. NAC 704.626 is hereby amended to read as follows:

704.626 1. The commission will determine the reasonable return on equity for each public utility subject to the provisions of NAC 704.570 to ~~704.630,~~ 704.628, inclusive. A determination will be made:

- (a) When deemed necessary by the commission;
- (b) At the request of the staff; or
- (c) At the request of the consumer's advocate,

FLUSH but no more frequently than one time every 2 years.

2. The commission will notify the staff, the consumer's advocate, and all public utilities subject to the provisions of NAC 704.570 to ~~704.630,~~ 704.628, inclusive, of its recommended return on equity. Any party may file written comments and request a hearing with the commission regarding the commission's recommended return on equity. If a hearing is so requested, the commission will notify all parties of the date set for the hearing.

3. The return on common equity determined by the commission in the proceeding will be used by the commission in evaluating each application for a change in rates filed by a public utility subject to the provisions of NAC 704.570 to ~~704.630,~~ 704.628, inclusive, during those years, unless a party of record to the proceeding notifies the commission and the other parties of record, in writing, before the deadline set for petitions for leave to intervene, of its intent to present evidence in support of a different rate of return on common equity.

Sec. 75. NAC 704.627 is hereby amended to read as follows:

704.627 1. The staff will conduct a periodic inspection of the facilities, books and records of each public utility subject to the provisions of NAC 704.570 to ~~704.630,~~ 704.628, inclusive. The frequency of the inspections will be based on the growth in customer base, customer satisfaction or any other change in the utility that would provide a reason for an inspection, or on the request of the commission.

2. The staff will notify the utility and the bureau of consumer protection that an inspection will be made in accordance with this section. Within 30 days after the utility receives notice of the inspection, the utility shall provide the commission with adhesive mailing labels individually addressed to each customer. The staff, through the division of consumer complaint resolution, will mail a survey to each customer of the utility which is scheduled for inspection.

3. After completing the inspection, the staff will submit a written report of its findings and recommendations to the commission, the utility and the bureau of consumer protection. If the conclusion of the report is that the utility is not in compliance with the standards of service set forth in NAC 704.628, the utility shall submit to the commission, within 30 days after its receipt of the report, its written response to the staff's findings and recommendations. The utility may contest the findings and recommendations and request a hearing before the commission. If no hearing is requested, the utility's response must indicate how the utility intends to comply with the recommendations set forth in the staff's report. If expenditures for construction are required for compliance, the utility shall include a timetable for the construction, an estimate of its cost, and an estimate of the effect, if any, of the expenditure on the utility's rates. Upon its receipt of the utility's response, the staff will place the matter before the commission. Whether or not a hearing is requested, the commission may schedule a session to receive comments from the utility's customers on the quality of its service. The commission will consider the survey of

customers, the staff's report, the utility's response and the record of any hearing held before it approves or disapproves the findings and recommendations of the staff or makes any findings and recommendations of its own.

Sec. 76. NAC 704.628 is hereby amended to read as follows:

704.628 Each public utility subject to the provisions of NAC 704.570 to ~~704.630,~~ 704.628, inclusive, shall comply with the following standards of service:

1. For water resources, water rights must be sufficient to supply adequate amounts of water to satisfy existing commitments.

2. For water production, the utility must be capable of producing, from surface or ground water sources or by obtaining water from another utility, sufficient quantities of water to meet the historic maximum daily demand of the system.

3. For water distribution, the distribution system of the utility must meet each of the following requirements:

(a) Service connections from the utility must not exceed the hydraulic capabilities of the system.

(b) The network of pipes of the system must be capable of delivering maximum day demand concurrently with required fire flows. Maximum day demand must be determined from historical records or, in the absence of historical data, calculated by using a factor of three times the average day demand. Requirements for fire flow and duration of the fire flow must be established by the county or local agency having jurisdiction over fire protection. In the absence of a local agency exercising jurisdiction over fire protection, the requirements for fire flow must be established utilizing the most current edition of the *Uniform Fire Code*, which is hereby adopted by reference. A copy of the *Uniform Fire Code* may be obtained, at a price of ~~[\$55.65,]~~

\$141.60, from the International Conference of Building Officials, 5360 Workman Mill Road, Whittier, California 90601, telephone (800) ~~[423-6587, extension 276.]~~ **284-4406**, or on-line at <http://www.icbo.org>.

(c) The distribution system, in conjunction with production, storage and pressure control facilities, must be capable of maintaining, during periods of maximum day demand, a minimum residual pressure of 40 pounds per square inch throughout the distribution system. Static pressure must not exceed 100 pounds per square inch at the lowest elevation in any pressure zone. During periods of fire flow, the residual pressure at any point in the distribution system must not fall below 20 pounds per square inch.

(d) To deliver the quantity of water necessary to comply with the requirements of public fire protection, the utility shall provide and maintain an adequate quantity of hydrants at the prescribed spacing as established by the county or local agency having jurisdiction over fire protection. In the absence of any local agency having jurisdiction over fire protection, the spacing of fire hydrants must be determined by using the current edition of the *Uniform Fire Code*.

(e) The utility shall not allow the amount of water lost from its distribution system because of leakage to exceed 10 percent of the amount of water required for the system.

(f) All water sources must have a master meter.

4. For storage, the utility must provide water under both of the following circumstances:

(a) The utility must have the ability to sustain a mechanical failure. When the single most critical pump is out of service, the pumping facilities and above-ground storage of the utility must be able to maintain the average daily flow rate plus the maximum required fire flow rate for the required duration.

(b) The utility must have the ability to sustain a power outage. To provide system reliability during a power outage, the utility shall comply with at least one of the following:

(1) In a power outage, pumping facilities with an alternative power source in conjunction with above-ground storage must be capable of delivering the required fire flow demand for the required duration plus maximum day demand for 1 day.

(2) Above-ground storage must be capable of providing the required fire flow for the required duration plus the average day demand for 1 day.

FLUSH As used in this paragraph, “above-ground storage” means the amount of water that is stored above an elevation which will maintain a hydraulic gradient above 20 pounds per square inch at any point within the distribution system during maximum demand.

5. For water quality, the quality must meet all existing state and federal standards for purity.

6. For administration and management, adequately trained personnel must be available to operate the utility under all reasonable circumstances. Books and records maintained by the utility must comply with the systems of accounts established for class C water and sewer utilities prepared by the National Association of Regulatory Utility Commissioners, which are hereby adopted by reference. A copy of the publication containing the system established for class C water utilities and for sewer utilities may be obtained, for the price of \$15 for the system of accounts for Class C water utilities and \$16 for the system of accounts for sewer companies, from ~~[the National Association of Regulatory Utility Commissioners, P.O. Box 684,]~~ *NARUC Publications, 1101 Vermont Avenue N.W., Suite 200*, Washington, D.C. ~~[20044.]~~ *20005, or on-line at <<http://www.naruc.org>>*. Each utility shall develop and carry out a written operation and maintenance program, a cross-connection control program and an emergency plan containing procedures unique to each system. Each utility shall have on file, at an office maintained in the

State of Nevada, updated drawings, maps or other permanent records to aid in the operation of the water system. The utility shall make and maintain a record of any repairs made to a distribution pipe that sets forth the location of the leak, the date the leak was repaired, an assessment of the cause of the leak and a description of the manner used to repair the pipe.

Sec. 77. NAC 704.680303 is hereby amended to read as follows:

704.680303 1. A nonrural incumbent local exchange carrier shall, in accordance with NAC 704.6803 to 704.680315, inclusive, file with the commission a request for the approval of:

- (a) A plan for the reporting and auditing of performance measures; and
- (b) A plan establishing performance incentives.

2. The commission will conduct a hearing on a request for approval of the plans submitted pursuant to subsection 1 . ~~[not later than 60 calendar days after the date on which the request for approval is filed with the commission.]~~ At such a hearing, any certificated competitive local exchange carrier doing business in the service areas of the nonrural incumbent local exchange carrier that filed the request for approval may request modifications to the plans.

3. The commission will issue an order granting, denying or modifying a request for the approval of the plans . ~~[within 120 calendar days after the date on which the commission holds a hearing on the request for approval.]~~

~~—4.— Not later than January 31 of each year following the year in which]~~

4. If the plans of a nonrural incumbent local exchange carrier are approved by the commission pursuant to this section, the nonrural incumbent local exchange carrier shall file a request for review by the commission of the plans. ***The request for review must be filed:***

(a) If the commission approved the plans on or before the effective date of this regulation, not later than January 31, 2003, and not later than January 31 of every third year thereafter;
or

(b) If the commission approved the plans after the effective date of this regulation, not later than January 31 of the third year following the year in which the plans are approved, and not later than January 31 of every third year thereafter.

5. The commission may, upon good cause shown, conduct a hearing and issue an order in accordance with this section on a request for the renewal of the approval of the commission of the plan.

~~5.~~ 6. Unless good cause is shown, no person may request a modification of the plans except as otherwise provided in this section. If good cause is shown, the commission will treat a request for modification as a request for approval subject to the provisions of this section.

Sec. 78. NAC 704.7472 is hereby amended to read as follows:

704.7472 1. An application for a certificate of public convenience and necessity filed by a competitive provider of telecommunication service must contain *all* the following information, either in the application or as exhibits attached to it:

(a) The type of service, if any, presently being provided by the applicant, or being proposed to be provided by the applicant, and a general description of the service . ~~6.~~

(b) The most recent annual financial statements of the applicant, or if annual financial statements are not available, financial statements of the most recent quarterly period . ~~6.~~

(c) A copy of the certificate issued by the secretary of state of the State of Nevada which acknowledges that the provider has filed its articles of incorporation with the secretary of state .

~~6.~~

(d) Proof that a performance bond has been obtained in an amount which is sufficient to cover deposits and advance payments paid by customers . ~~{; or proof that all such deposits and advance payments are being held in an escrow account;}~~

(e) The toll-free telephone number that the customers will be given for contacting the provider regarding the establishment of service, complaints, and queries about service and billing, and all other customer service matters . ~~{;}~~

(f) Facts sufficient to establish that the provider possesses the necessary technical capability to provide the proposed service . ~~{; and}~~

(g) A statement concerning whether the provider intends to provide switched telecommunication service within an exchange. If the provider intends to provide switched telecommunication service within an exchange, the application must include affirmation that the provider will offer basic service to its customers.

(h) If the provider is doing business or intends to do business in this state under an assumed or fictitious name:

(1) A copy of each certificate that the provider has filed or intends to file pursuant to chapter 602 of NRS with the county clerk of each county in which the provider is doing business or intends to do business; or

(2) A statement that conforms to the requirements of NRS 602.020, if the provider is not otherwise subject to the provisions of chapter 602 of NRS.

2. The provisions of NRS 704.330, 704.350 and 704.370 apply to any such application.

3. As used in this section, “advance payment” means the money paid by a customer to a provider of telecommunication service for a service which the customer has not yet received, including payments for telecommunication debit card services.

Sec. 79. NAC 704.760 is hereby amended to read as follows:

704.760 The purpose of NAC 704.760 to ~~[704.784,]~~ **704.782**, inclusive, is to establish a requirement and procedure for obtaining an operating permit for the sale of energy from geothermal resources to the public.

Sec. 80. NAC 704.762 is hereby amended to read as follows:

704.762 NAC 704.760 to ~~[704.784,]~~ **704.782**, inclusive, has the same applicability as NRS 704.669.

Sec. 81. NAC 704.764 is hereby amended to read as follows:

704.764 As used in NAC 704.760 to ~~[704.784, inclusive:~~

~~1. “Commission” means the public utilities commission of Nevada.~~

~~2.] **704.782, inclusive:**~~

1. “Geothermal resource” has the meaning ascribed to it in NRS 534A.010.

~~[3.]~~ **2.** “Person” has the meaning ascribed to it in NRS 704.015.

Sec. 82. NAC 704.7892 is hereby amended to read as follows:

704.7892 “Customer” means the retail purchaser of ~~[electric or]~~ natural gas service.

Sec. 83. NAC 704.7893 is hereby amended to read as follows:

704.7893 “Distribution company” includes ~~[:~~

~~1. An electric distribution utility as defined in NRS 704.970; and~~

~~2. A], **without limitation, a** seller of any noncompetitive component of natural gas service.~~

Sec. 84. NAC 704.7894 is hereby amended to read as follows:

704.7894 “Noncompetitive service” means any ~~[electric or]~~ natural gas service determined by statute or by the commission to be unsuitable for purchase by customers from alternative sellers.

Sec. 85. NAC 704.7895 is hereby amended to read as follows:

704.7895 “Potentially competitive service” means a component of ~~electric or~~ natural gas service determined by the commission to be suitable for purchase by customers from alternative sellers. ~~[The term includes any potentially competitive electric service that is deemed to be effectively competitive pursuant to NRS 704.976.]~~

Sec. 86. NAC 704.7896 is hereby amended to read as follows:

704.7896 1. NAC 704.789 to 704.792, inclusive:

(a) Apply to the provision of services as set forth in NRS ~~[704.961]~~ 704.993 to 704.999, inclusive.

(b) Do not apply to a public utility that supplies natural gas which is not regulated under an alternative plan established pursuant to NRS 704.997.

2. The provisions of NAC 704.789 to 704.792, inclusive, are not in any way restricted by the provisions of NAC 704.270 to 704.2725, inclusive.

Sec. 87. NAC 704.7897 is hereby amended to read as follows:

704.7897 1. A distribution company may not provide any potentially competitive or discretionary ~~electric or~~ natural gas service.

2. An affiliate of a distribution company may provide a potentially competitive or discretionary ~~electric or~~ natural gas service upon approval by the commission and in accordance with NAC 704.789 to 704.792, inclusive.

Sec. 88. NAC 704.7911 is hereby amended to read as follows:

704.7911 For purposes of conducting an audit pursuant to NAC 704.791, the distribution company and its affiliates shall provide the independent auditor, the commission staff, the bureau of consumer protection in the office of the attorney general and the commission access to:

1. Financial accounts and records which:

(a) Verify that the transactions conducted between the distribution company and its affiliates are authorized by and conducted in accordance with the provisions of NRS ~~[704.961]~~ 704.993 to 704.999, inclusive, and NAC 704.789 to 704.792, inclusive; and

(b) Relate to the regulation of rates;

2. All records in any form relating to the provision of information or services to affiliated or nonaffiliated entities; and

3. The working papers and supporting materials of any auditor who performed an audit pursuant to NAC 704.791.

Sec. 89. NAC 704.9585 is hereby amended to read as follows:

704.9585 “Plan” means the plan which a utility is required by NRS ~~[704.755]~~ 704.991 to submit to the commission.

Sec. 90. NAC 704.973 is hereby amended to read as follows:

704.973 If any provision of NAC 704.953 to ~~[704.9725,]~~ 704.973, inclusive, is held invalid, the commission intends that such invalidity not affect the remaining provisions to the extent that they can be given effect.

Sec. 91. NAC 704.995 is hereby amended to read as follows:

704.995 The provisions of NAC 704.997 and 704.998 apply to public utilities that are required to comply with the provisions of NRS ~~[704.815,]~~ 704.668. To determine whether a public utility is required to comply with the provisions of NRS ~~[704.815,]~~ 704.668, a public utility that serves 3,000 or fewer persons shall be deemed to include a public utility that serves 3,000 or fewer service connections.

Sec. 92. 1. NAC 703.150, 703.2474, 703.605, 703.850, 703.855, 703.860, 703.865, 703.870, 703.875, 703.880, 703.885 and 703.890 are hereby repealed.

2. NAC 704.080 as amended by section 17 of LCB File No. R100-01, which was adopted by the public utilities commission of Nevada and which was filed with the secretary of state on December 17, 2001, is hereby repealed.

3. NAC 704.324, 704.467, 704.538, 704.630, 704.68052, 704.784, 704.79601, 704.79603, 704.79605, 704.79607, 704.79609, 704.79611, 704.79613, 704.79615, 704.79617, 704.79619, 704.79621, 704.79623, 704.79625, 704.79627, 704.79629, 704.79631, 704.79633, 704.79635, 704.79637, 704.79639, 704.79641, 704.79643, 704.79645, 704.79647, 704.79649, 704.79651, 704.79653, 704.79655, 704.79657, 704.79659, 704.79661, 704.79663, 704.79665, 704.79701, 704.79703, 704.79705, 704.79707, 704.79709, 704.79711, 704.79713, 704.79721, 704.79723, 704.79725, 704.79727, 704.79729, 704.79731, 704.79733, 704.79735, 704.79737, 704.79739, 704.79741, 704.79743, 704.79745, 704.79747, 704.79749, 704.79751, 704.79753, 704.79754, 704.79755, 704.79757, 704.79759, 704.79761, 704.79763, 704.79765, 704.79767, 704.79769, 704.79771, 704.79773, 704.79781, 704.79783, 704.79785, 704.79787, 704.79789, 704.79791, 704.79793, 704.79795, 704.79797, 704.79799, 704.79801, 704.79803, 704.79805, 704.79807, 704.79809, 704.79811, 704.79813, 704.79815, 704.79817, 704.79819, 704.79821, 704.79823, 704.79825, 704.79827, 704.79829, 704.79831, 704.79833, 704.79835, 704.79837, 704.79839, 704.79841, 704.79843, 704.79845, 704.79847, 704.79849, 704.79851, 704.79853, 704.79855, 704.79857, 704.79859, 704.79861, 704.79863, 704.79865, 704.79867, 704.79869, 704.79871, 704.79873, 704.79875, 704.79877, 704.79879, 704.79881, 704.79883, 704.79885, 704.79887, 704.79889, 704.79891, 704.79893, 704.79895, 704.79897, 704.79899, 704.79901, 704.79903, 704.79905, 704.79907, 704.79909, 704.79911, 704.79913, 704.79915, 704.79917, 704.79919,

704.79921, 704.79925, 704.79927, 704.79929, 704.79931, 704.79933, 704.79935, 704.79937, 704.79939, 704.79941, 704.79943, 704.79945, 704.79951, 704.79953, 704.79955, 704.79957, 704.79959, 704.79961, 704.79963, 704.79965, 704.79967 and 704.9725 are hereby repealed.

TEXT OF REPEALED SECTIONS

703.150 Nature of proceedings. Proceedings before the commission are investigative on the part of the commission, although they may be conducted in the form of adversary proceedings.

703.2474 Hearing to receive public comment on application to raise rates.

1. If a utility files an application to raise rates in a general rate case, the commission will schedule a hearing within the service territory of the utility for the purpose of receiving public comment on the application. The hearing will be scheduled at a time and place convenient to customers of the utility.

2. The utility shall give notice of the time, place and purpose of the hearing directly to each of its customers. The notice must be received not less than 10 days before the hearing.

3. Nothing in this section shall be deemed to restrict the authority of the commission to schedule such a hearing in any other case.

703.605 Protest.

1. Any objection by a person, not a party of record, to an application, petition or other matter must be styled a “protest.”

2. A written protest must legibly set forth a clear statement of the matter to which an objection is made.

3. The commission will serve a copy of a written protest upon the parties against whom it is directed.

4. Even if a hearing on a written protest is not required by law, the commission will notify the parties of record and hold such a hearing if the public interest will be served.

5. A protest at a hearing may be oral or written.

6. At a hearing, the presiding officer shall allow any protestant to enter an appearance in the proceeding. A protestant who desires to participate as a party of record in a proceeding must file a written petition for leave to intervene unless the presiding officer upon good cause shown permits an oral petition for leave to intervene. A protestant is entitled to participate as a party of record only to the extent that leave to intervene is granted.

703.850 Definitions. As used in NAC 703.850 to 703.890, inclusive, unless the context otherwise requires:

1. “Administrative proceeding” means a proceeding to impose an administrative fine pursuant to subsection 2 of NRS 706.771.

2. “Hearing officer” means a person designated pursuant to subsection 3 of NRS 703.110 to conduct an administrative proceeding.

3. “Respondent” means a person against whom an administrative proceeding is initiated.

703.855 Administrative proceeding: Initiation and termination by staff; conduct; applicable regulations; intervention.

1. An administrative proceeding must be initiated by the commission’s staff as provided in NAC 703.860. The commission’s staff may terminate an administrative proceeding at any time

before hearing without prejudice to the initiation of another administrative proceeding based upon the same set of facts.

2. An administrative proceeding must be conducted pursuant to the provisions of chapter 233B of NRS and those provisions of chapters 703 and 706 of NRS which do not conflict with the provisions set forth in chapter 233B of NRS regarding notice to parties and the opportunity of parties to be heard.

3. The provisions of NAC 703.490 to 703.825, inclusive, apply to an administrative proceeding, as if the hearing officer were the commission or a presiding officer, to the extent that those provisions do not conflict with the provisions of NAC 703.850 to 703.890, inclusive.

4. No person may intervene in an administrative proceeding.

703.860 Contents, service and filing of complaint; answer to complaint.

1. The commission's staff may initiate an administrative proceeding by:

(a) Serving a copy of a complaint upon the respondent by personal delivery or by mailing by certified mail, return receipt requested, to the last known address of the respondent's business or residence; and

(b) Filing the complaint with the commission.

2. The complaint must be signed by a member of the commission's staff and contain:

(a) The name of the respondent;

(b) A concise statement of the facts upon which the imposition of a fine is allegedly grounded;

(c) The amount of the fine requested; and

(d) Any other matter required by law.

3. The respondent may file with the commission an answer to the complaint no later than 15 days after it is served.

703.865 Settlement of proceeding.

1. The commission's staff may enter into an agreement with a respondent for the settlement of an administrative proceeding. The agreement must be signed by the commission's staff and the respondent, and state that the respondent consents to the imposition of a fine in a specific amount. Unless it so provides, the agreement must not be construed as an admission by the respondent of his commission of any violation alleged in the complaint.

2. Upon entering into such an agreement:

(a) The commission's staff shall submit the agreement to the commission; and

(b) The respondent shall deposit with the commission a cashier's check or money order, payable to the commission, for the amount of the agreed fine. The commission will maintain the amount in an interest-bearing trust account until it enters a final order in the administrative proceeding.

3. The agreement is not effective unless approved by the commission. If the commission approves of the agreement, it will enter an appropriate final order. If the commission does not approve of the agreement, the administrative proceeding must be set for a hearing.

4. Upon termination of the administrative proceeding, the commission will return to the respondent the amount deposited pursuant to subsection 2 which exceeds the amount of any fine imposed, together with the accrued interest on that unused amount.

703.870 Powers and duties of hearing officer.

1. A hearing officer shall:

(a) Subscribe to the constitutional oath of office before exercising any of the powers or performing any of the duties of his office.

(b) Conduct a fair and impartial hearing in accordance with the law.

(c) Conduct the entire hearing on the record and require each party or his counsel to identify himself before he presents evidence.

(d) Establish the order of presentation of the evidence by each party.

(e) Ensure that the hearing proceeds with reasonable diligence and the least delay practicable.

(f) Prepare a proposed decision for review by the commission.

(g) Deliver the record of the hearing and the proposed decision to the commission.

2. If not otherwise prohibited by law and if substantial rights of the parties will not be prejudiced, a hearing officer may allow amendment of the complaint and answer before conducting a hearing.

703.875 Appeal of procedural ruling by hearing officer.

1. Any party to an administrative proceeding conducted by a hearing officer may appeal a ruling of the hearing officer on any procedural matter to the commission by filing a request for further consideration with the hearing officer within 15 days after the ruling is made, or within the period prescribed by the hearing officer. The request must include grounds for review of the ruling by the commission.

2. The hearing officer shall transmit:

(a) The request for further consideration and any response to the request;

(b) His ruling on the procedural matter; and

(c) A memorandum which explains those parts of his ruling which are the subject of the appeal,

to the commission no later than the time he delivers the proposed decision pursuant to NAC 703.870.

3. Except as otherwise provided in subsection 4, the commission will enter a decision on the appeal at the same time it rules upon the proposed decision of the hearing officer received pursuant to NAC 703.870.

4. If the hearing officer finds that a ruling on the appeal is necessary to prevent detriment to the public interest or irreparable harm to any person, the commission may enter a decision on the appeal before it rules on the proposed decision of the hearing officer received pursuant to NAC 703.870.

703.880 Action by commission.

1. The commission will review the decision of a hearing officer and enter a final order affirming, modifying or setting aside the decision.

2. If a respondent fails to appear at the time and place set for an administrative proceeding, the commission may impose a fine for the violations alleged in the complaint.

3. In determining the amount of a fine to be imposed pursuant to an administrative proceeding, the commission may consider:

(a) The seriousness of the violations alleged in the complaint which were demonstrated to have been committed by the respondent;

(b) Any hazard to the health or safety of the public resulting from those violations;

(c) Any economic benefit received by the respondent as a result of those violations;

(d) Any mitigation or aggravation by the respondent of the effects of those violations;

(e) The extent to which the respondent demonstrates his good faith;

(f) Any previous history of violations by the respondent;

(g) The amount necessary to deter future violations; and

(h) Any other appropriate matter.

703.885 Payment of fine. A fine imposed pursuant to an administrative proceeding is due and payable within 30 days after the final order of the commission imposing the fine.

703.890 Remedy not exclusive. The provisions of NAC 703.850 to 703.890, inclusive, do not preclude the commencement or pursuit of any additional remedies for the commission of the acts upon which an administrative proceeding is based.

704.080 Deviation from regulations. The commission may permit deviation from NAC 704.023 to 704.195, inclusive, and sections 4 to 7, inclusive, of this regulation, if:

1. Good cause appears; and
2. The deviation is found to be in the public interest and is not contrary to statute.

704.324 Modification or waiver of NAC 704.323. The commission will modify or waive the application of any provision of NAC 704.323 to a particular utility if it finds that the application of that provision would unreasonably burden that utility.

704.467 Waiver permitted. Upon application, the commission may waive compliance with any provision of NAC 704.460 to 704.467, inclusive, if it finds that compliance would be impracticable or imprudent under the circumstances.

704.538 Waiver of compliance. Upon application, the commission may waive compliance with any provision of NAC 704.531 to 704.538, inclusive, if it finds that compliance would be impracticable or imprudent under the circumstances.

704.630 Deviation from regulations. If a utility believes that its compliance with NAC 704.570 to 704.630, inclusive, would be impracticable or unnecessary because of factors which

are unique to its application, the utility may apply to the commission for a variance from those provisions.

704.68052 Disbursement from fund limited to support of extension or improvement of basic service; petition for disbursement.

1. A current or potential provider of basic service may file a petition with the commission requesting a disbursement of money from the fund for universal service only to support an extension or improvement in service which is necessary to provide or improve basic service to new or existing customers. The petitioning provider has the burden of demonstrating that no service is available, or that the basic service which is available is inadequate, and that recourse to the fund for universal service is the only viable method for funding all or a portion of the extension or improvement.

2. A provider of basic service who requests money from the fund for universal service to extend service to customers who are not currently served by the provider or to upgrade service to the level of basic service, must submit:

(a) The projected cost of the extension or upgrade of service, including a detailed description of the facility to be installed;

(b) The projected revenues to be generated from the customers served by the extended or upgraded service;

(c) The type and grade of service to be provided; and

(d) Such facts as are necessary to demonstrate the need for:

(1) The proposed extension or service upgrade; and

(2) Money from the fund for universal service to complete the proposed extension or service upgrade.

3. The commission will issue an order which fully or partially approves or denies the petition. The administrator shall use the order to determine the total annual amount of money needed to support the fund for universal service and the amount of money to be distributed to each eligible provider.

704.784 Deviation from regulation. Upon application, the commission will allow a deviation from a provision of NAC 704.760 to 704.782, inclusive, if the commission finds that there is a good cause for the deviation and to allow it would be in the public interest.

704.79601 Definitions. (NRS 703.025) As used in NAC 704.79601 to 704.79665, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.79603 to 704.79635, inclusive, have the meanings ascribed to them in those sections.

704.79603 “Affiliate” defined. (NRS 703.025) “Affiliate” has the meaning ascribed to it in NRS 78.412.

704.79605 “Alternative seller” defined. (NRS 703.025) “Alternative seller” has the meaning ascribed to it in NRS 704.967.

704.79607 “Customer” defined. (NRS 703.025) “Customer” has the meaning ascribed to it in NRS 704.968.

704.79609 “Distribution function” defined. (NRS 703.025) “Distribution function” means the affiliate, division, department, section, part or unit of an electric distribution utility that:

1. Is responsible for facilities for providing distribution and transmission services; and
2. Performs distribution and transmission services.

704.79611 “Distribution function operation” defined. (NRS 703.025) “Distribution function operation” means the parts of the distribution function of an electric distribution utility that:

1. Operate, direct, organize, provide or plan for distribution or transmission service;
2. Administer distribution or transmission tariffs; or
3. Process or execute distribution or transmission services transactions.

704.79613 “Distribution service” defined. (NRS 703.025) “Distribution service” means the service provided over the physical plant of an electric distribution utility delivering electricity from the transmission system to customers.

704.79615 “Electric distribution utility” defined. (NRS 703.025) “Electric distribution utility” has the meaning ascribed to it in NRS 704.970.

704.79617 “Electric service” defined. (NRS 703.025) “Electric service” has the meaning ascribed to it in NRS 704.971.

704.79619 “Joint management employee” defined. (NRS 703.025) “Joint management employee” means an officer, a director or a senior manager of an electric distribution utility who provides joint management services.

704.79621 “Joint management services” defined. (NRS 703.025) “Joint management services” means senior-level oversight or governance of both the distribution function and the provider of last resort function of an electric distribution utility, but does not include the senior-level oversight or governance of only the distribution function operation or provider of last resort function operation of an electric distribution utility.

704.79623 “Joint support employee” defined. (NRS 703.025) “Joint support employee” means an employee of an electric distribution utility who provides joint support services.

704.79625 “Joint support services” defined. (NRS 703.025) “Joint support services” means the property, facilities, equipment, systems, personnel, activities and functions used to provide administrative support to both the distribution function and the provider of last resort function of an electric distribution utility, including, without limitation, administrative services, financial management services, data processing, shareholder services, human resources, employee benefits and other similar administrative support services. The term does not include any administrative support services provided only to the distribution function operation or to the provider of last resort function operation of the electric distribution utility.

704.79627 “Last resort service” defined. (NRS 703.025) “Last resort service” means the electric service provided to customers by an electric distribution utility or alternative seller designated by the commission pursuant to NRS 704.982 or 704.9829, respectively, to provide such service.

704.79629 “Provider of last resort” defined. (NRS 703.025) “Provider of last resort” means the entity or entities designated by the commission pursuant to NRS 704.982 or 704.9829 to provide last resort service.

704.79631 “Provider of last resort function” defined. (NRS 703.025) “Provider of last resort function” means the affiliate, division, department, section, part or unit of an electric distribution utility that aggregates the components of electric service that are necessary for the provision of electric service pursuant to NRS 704.982.

704.79633 “Provider of last resort function operation” defined. (NRS 703.025) “Provider of last resort function operation” means the parts of the provider of last resort function of an electric distribution utility that operate, direct, organize, provide or plan for the provision of last resort service.

704.79635 “Utility provider of last resort” defined. (NRS 703.025) “Utility provider of last resort” means an electric distribution utility that has been designated by the commission pursuant to NRS 704.982 to provide last resort service to customers.

704.79637 Provision of last resort service; acceptance of additional customers; rates; proposed tariffs; application to reduce rates. (NRS 703.025)

1. Before July 1, 2001, a utility provider of last resort may provide the last resort service or may obtain the services necessary to provide the last resort service from unaffiliated companies or through an affiliate of the utility created to provide such services.

2. On or after July 1, 2001, a utility provider of last resort shall continue to provide the last resort service to those customers as the provider of last resort until such time as the commission authorizes an alternative method for providing last resort service to those customers.

3. A provider of last resort shall accept additional customers beyond those initially assigned by the commission if:

(a) The license of the alternative seller that was providing service to the customers is suspended or revoked by the commission; or

(b) The customers are new customers who are unable or fail to obtain service from an alternative seller.

4. A provider of last resort shall provide all components of last resort service to its customers receiving last resort service at a rate that is established by the commission pursuant to NRS 704.9823.

5. Not later than 45 days before a class of customers may begin taking last resort service from a utility provider of last resort, and in any event, not later than June 1, 2001, the utility provider of last resort shall file proposed tariffs with the commission to provide last resort

service to the class of customers. All other providers of last resort shall file proposed tariffs with the commission within 30 days after the date on which the commission designates the provider to be the provider of last resort. Such a tariff must include the rates, terms and conditions for the provision of last resort service by the provider.

6. A provider of last resort may, at any time, file an application with the commission to reduce the rate charged to a class or classes of customers receiving last resort service. The commission will approve such an application only if the commission makes a finding on the record that the approval of the application will not have any detrimental impact on the development of the competitive market and that the application to reduce rates is not based, in whole or in part, on any purpose that will or would likely have an anticompetitive effect on the competitive market in violation of the purposes set forth in NRS 703.151 and 704.979, or any regulations adopted pursuant thereto, relating to the establishment of a competitive market.

704.79639 Customer rights and responsibilities. (NRS 703.025) Customers receiving last resort service have all the rights and responsibilities set forth in NAC 704.302 to 704.390, inclusive, and 704.79781 to 704.79849, inclusive.

704.79641 Implementation schedule: Filing of proposed schedule; hearing and review; failure to file; designation of compliance officer. (NRS 703.025)

1. Not later than March 1, 2001, or 30 days after the date on which the commission designates a utility provider of last resort pursuant to NRS 704.982, whichever occurs later, the utility provider of last resort shall file with the commission a detailed proposed implementation schedule pursuant to which the utility provider of last resort will begin providing last resort service.

2. The commission will conduct a hearing on a proposed implementation schedule filed by a utility provider of last resort and will review the proposed schedule, any comments and schedules proposed by other interested parties and any other supporting or contradicting evidence to determine:

(a) The reasonableness of the proposed implementation schedule, in light of the relevant statutes and relevant regulations adopted by the commission;

(b) Whether, and to what extent, the commission will have to make adjustments to the proposed implementation schedule; and

(c) Whether, and to what extent, the commission will have to make adjustments to its regulations to accommodate the proposed implementation schedule.

3. If a utility provider of last resort fails to file a detailed proposed implementation schedule in accordance with subsection 1, the utility provider of last resort must comply with the provisions of NAC 704.79645 to 704.79655, inclusive, upon the opening of the competitive market for the electric service.

4. A utility provider of last resort shall designate an officer to evaluate and certify that the utility provider of last resort is in compliance with the provisions of an implementation schedule that has been approved by the commission, or with the provisions of NAC 704.79645 to 704.79655, inclusive, as appropriate.

704.79643 Applicability to utility provider of last resort. (NRS 703.025) The provisions of NAC 704.79645 to 704.79655, inclusive, apply to a utility provider of last resort only:

1. If the utility provider of last resort fails to file with the commission a detailed proposed implementation schedule as required by NAC 704.79641; or

2. Upon order of the commission.

**704.79645 Employees of distribution function and provider of last resort function:
Requirements and restrictions. (NRS 703.025)**

1. Except as otherwise provided in NAC 704.79649, the employees of a utility provider of last resort working in the distribution function of the utility shall operate and function independently of the employees of the utility working in the provider of last resort function of the utility. The employees of a utility provider of last resort working in the provider of last resort function of the utility shall operate and function independently of the employees of the utility working in the distribution function of the utility.

2. Except as otherwise provided in NAC 704.79649:

(a) An employee of a utility provider of last resort working in the distribution function of the utility shall not conduct or participate in any operations or activities of the provider of last resort function of the utility.

(b) An employee of a utility provider of last resort working in the provider of last resort function of the utility shall not conduct or participate in any operations or activities of the distribution function of the utility.

3. Except as otherwise provided in NAC 704.79649, the employees of a utility provider of last resort working in the distribution function of the utility must be located physically apart from the employees of the utility working in the provider of last resort function of the utility. To ensure its compliance with the provisions of this subsection, a utility provider of last resort may, without limitation:

(a) Place such employees in separate secured office buildings; or

(b) Construct and maintain separate and secured access areas and facilities within a shared office building.

4. Except as otherwise provided in NAC 704.79649:

(a) An employee of a utility provider of last resort working in the provider of last resort function of the utility shall not have physical access to:

(1) The system control center for the distribution function of the utility; or

(2) The communication facilities, computer systems, office space, file cabinets, office equipment used for the distribution or transmission system, or any other similar facilities or systems used for the distribution function operation of the utility,

if that physical access differs in any way from the physical access available to, and commonly used by, employees of alternative sellers.

(b) An employee of a utility provider of last resort working in the provider of last resort function of the utility shall not have direct or indirect access to information concerning the distribution function operation of the utility which is not generally available to alternative sellers and the public, including, without limitation, information concerning:

(1) Plans for construction or abandonment of transmission or distribution services or facilities;

(2) Planned upgrades, downgrades or modifications of transmission or distribution services or facilities;

(3) Planned transfers or sales of transmission or distribution facilities;

(4) Maintenance of transmission or distribution facilities;

(5) Plans or schedules for outages;

(6) Ratings of transmission or distribution facilities; and

(7) Interconnections for new customers which have been forecasted or scheduled, customer emergency curtailment, and any other market analysis report, survey, research or other type of forecast, planning or strategic report.

(c) An employee of a utility provider of last resort working in the distribution function of the utility shall not directly or indirectly disclose to any employee working in the provider of last resort function of the utility, any information described in paragraph (b) of this subsection unless that information is generally available to alternative sellers and the public.

(d) An employee of a utility provider of last resort working in the provider of last resort function of the utility shall not have direct or indirect access to information about a specific customer relating to his billing, usage or load shape, other than information relating to a customer receiving last resort service from the provider of last resort function of the utility, unless that information is acquired:

- (1) On terms and conditions that are applicable to all alternative sellers;
- (2) With the consent of the customer to whom the information relates; and
- (3) In accordance with the applicable rules and standards set forth by the commission for obtaining such information.

(e) An employee of a utility provider of last resort working in the distribution function of the utility shall not directly or indirectly disclose to any employee working in the provider of last resort function of the utility, any information about a specific customer relating to his billing, usage or load shape unless that information is provided:

- (1) On terms and conditions that are applicable to all alternative sellers;
- (2) With the consent of the customer to whom the information relates; and

(3) In accordance with the applicable rules and standards set forth by the commission for providing such information.

(f) An employee of a utility provider of last resort working in the distribution function of the utility may directly or indirectly disclose to any employee working in the provider of last resort function of the utility information concerning customer billing, usage, load shape, goods, services, purchases, sales or operations of the distribution function of the utility if that information is:

(1) Not specific to any one particular customer;

(2) Contemporaneously made available by the distribution function of the utility to all alternative sellers on the same terms and conditions; and

(3) Made available for public inspection by the distribution function of the utility.

704.79647 Employees of distribution function and provider of last resort function: Requirements and restrictions governing transfer. (NRS 703.025)

1. A utility provider of last resort may transfer an employee of the utility working in the provider of last resort function or the distribution function of the utility to the other function if the transfer is not used as a means, and does not have the foreseeable effect, of:

(a) Circumventing any provision set forth in NAC 704.79601 to 704.79665, inclusive, or

(b) Adversely affecting effective competition.

2. A utility provider of last resort shall document each transfer of an employee working in the provider of last resort function or distribution function of the utility to the other function. A utility provider of last resort shall provide this information to the commission on a quarterly basis.

3. An employee working in the distribution function of a utility provider of last resort who is transferred to the provider of last resort function of the utility shall not:

(a) Remove any data or information from the distribution function of the utility relating to the distribution function or customers of the distribution function unless that information is otherwise available to alternative sellers or customers of alternative sellers, or both;

(b) Provide to the provider of last resort function, or any employee working in the provider of last resort function operation, any information relating to the distribution function or customers of the distribution function unless that information is otherwise available to alternative sellers or customers of alternative sellers, or both; or

(c) Use any information relating to the distribution function of the utility, or customers of the distribution function, on behalf of the provider of last resort function of the utility unless that information is otherwise available to alternative sellers or customers of alternative sellers, or both.

4. Before an employee may transfer from the distribution function of a utility provider of last resort to the provider of last resort function of the utility, the employee must sign a statement acknowledging that he:

(a) Has read and will abide by the restrictions set forth in this section; and

(b) Understands that a violation of those restrictions may subject the utility to the penalties set forth in NAC 704.79665.

704.79649 Joint management employees and joint support employees: Restrictions; commission may limit use or access. (NRS 703.025)

1. Except as otherwise provided in this section, joint management employees and joint support employees of a utility provider of last resort:

- (a) May provide management services or support services for both functions;
- (b) Do not need to be separately located from either function; and
- (c) May have access to the facilities of and information in either function.

2. Except as otherwise provided in this section, a person employed as a joint management employee or joint support employee shall not engage in the provider of last resort function operation or in the distribution function operation of the utility provider of last resort. A utility provider of last resort shall ensure that such an employee is not used to circumvent any provision of NAC 704.79601 to 704.79665, inclusive.

3. Upon a complaint filed with the commission or its own motion, the commission may, after notice and hearing, limit the use or access of a joint management employee or joint support employee if the commission finds that such a limitation is necessary or appropriate to:

- (a) Mitigate actual or potential discrimination; or
- (b) Promote effective competition.

704.79651 Solicitation of customers. (NRS 703.025)

1. Except as otherwise provided in this section, a provider of last resort shall not, in any announcement, advertisement, statement or other form of communication to, with or intended for any of its customers or the public, directly or indirectly promote, recommend or otherwise urge or solicit a customer or the public to purchase electric service from the provider of last resort unless the provider of last resort, not later than 15 calendar days before its dissemination of such information, provides the information to the staff of the commission, the bureau of consumer protection in the office of the attorney general, all licensed alternative sellers and all other providers of last resort.

2. Nothing in this section prohibits such communication between:

(a) An electric distribution utility and any of its customers or the public if the communication only informs the customer or the public of the availability of last resort services from the utility if a customer does not or is unable to choose to get service from an alternative seller; or

(b) The provider of last resort and its existing customers.

704.79653 Distribution function: Standards of conduct; exceptions. (NRS 703.025)

1. Except as otherwise provided in this section, the distribution function of a utility provider of last resort:

(a) Shall provide service to the provider of last resort function of the utility only in accordance with the generally applicable distribution tariff, including, without limitation, price and other terms, for the distribution function of the utility.

(b) Shall not discriminate in any manner between the provider of last resort function of the utility and an alternative seller.

(c) When providing or procuring, or declining to provide or procure, any goods, services, facilities or information, or when establishing any standards, shall not provide, attempt to provide or conspire with any other person to provide:

(1) A competitive advantage to the provider of last resort function of the utility; or

(2) A competitive disadvantage to any alternative seller.

(d) Shall offer to all alternative sellers any goods, services, facilities or information that the distribution function offers to the provider of last resort function of the utility or any affiliate of the utility.

(e) Shall, at the same time that the distribution function offers to the provider of last resort function of the utility any goods, services, facilities or information, offer such goods, services, facilities or information to all alternative sellers. For the purposes of this paragraph, a

distribution function shall provide information relating to its services and discounted services to alternative sellers through the mechanism established pursuant to paragraph (f) of this subsection.

(f) Shall provide a mechanism which is accessible to the public, including, without limitation, an electronic bulletin board, through which an interested entity may promptly obtain pertinent information concerning:

- (1) Services provided by the distribution function; and
- (2) Any discounted services offered by the distribution function.

(g) With regard to the provision of distribution services, shall not represent that it will treat the provider of last resort function of the utility, or any customer of or provider to the provider of last resort function, differently than it will treat an alternative seller and any customers of and providers to the alternative seller.

(h) Shall not provide the provider of last resort function of the utility, or any customer of or provider to the provider of last resort function, with preferences over any alternative seller, or customers of or providers to an alternative seller, including, without limitation, preferences relating to the terms and conditions of service or pricing, or to the timing of service.

(i) Shall apply any tariff provision that allows for discretion in its application in the same manner to the provider of last resort function of the utility as the distribution function applies the tariff provision to an alternative seller, and the customers of and providers to an alternative seller.

(j) Shall strictly enforce mandatory tariff provisions to the provider of last resort function of the utility.

(k) Shall not condition or otherwise tie the provision of any service or the availability of any discounts, rates, other charges, fees, rebates or waiver of terms and conditions to the taking of any goods or services from the provider of last resort function of the utility.

(l) Shall not give any appearance that a customer or provider will receive preferential treatment if the customer or provider conducts, or will conduct, business with the provider of last resort function of the utility.

(m) Shall make any discount or waiver of all or part of a charge or fee available simultaneously to all market participants.

2. Nothing in this section applies to the joint management services and joint support services of a utility provider of last resort, if such services are not used as a means of, and do not have the foreseeable effect of:

(a) Circumventing the standards of conduct set forth in NAC 704.79601 to 704.79665, inclusive;

(b) Discriminating in favor of the provider of last resort function of the utility provider of last resort or against any alternative seller; or

(c) Adversely affecting effective competition.

704.79655 Maintenance of books, records and accounts; guidelines for allocating revenues and charges. (NRS 703.025)

1. A utility provider of last resort:

(a) Shall maintain books, records and accounts for its distribution function and its provider of last resort function in accordance with this section.

(b) Shall keep the books, records and accounts of its distribution function separate from the books, records and accounts of its provider of last resort function.

(c) Shall acquire for its provider of last resort function those distribution services necessary to serve its designated provider of last resort load under the tariff approved by the commission and shall account for all transactions between its distribution function and its provider of last resort function.

2. In accordance with its implementation schedule approved by the commission pursuant to NAC 704.79641, or upon order of the commission, as appropriate, a utility provider of last resort shall submit to the commission for approval written guidelines consistent with NAC 704.79601 to 704.79665, inclusive, for allocating revenues and charges between the distribution function of the utility and its provider of last resort function. The guidelines must provide, without limitation, for the provider of last resort function of the utility taking and paying for distribution and transmission services from the distribution function of the utility under the generally applicable tariffs of the distribution function of the utility. Unless the commission otherwise orders, expenses and revenues that are attributable to joint management services and joint support services must be allocated to the distribution function and the provider of last resort function on the basis of a ratio of labor expense that is equal to the proportion that the labor expense directly assignable to the distribution function, or to the provider of last resort function, bears to the total combined labor expense directly assignable to both the distribution function and the provider of last resort function.

3. A utility provider of last resort shall comply with the provisions of subsection 1 not later than June 1, 2001.

704.79657 Selection of alternative seller to provide last resort service. (NRS 703.025)

If an alternative seller is selected to provide last resort service, customers receiving last resort service who are not assigned to the alternative seller selected to provide last resort service must

be served by a utility provider of last resort under the same terms and conditions that existed for the provision of last resort service to those customers immediately before the selection of the alternative seller to provide last resort service.

704.79659 Violations: Complaint. (NRS 703.025) Any person may complain to the commission or a provider of last resort in writing, setting forth any act or thing allegedly done or not done by the provider of last resort, or any employee thereof, which is alleged to be in violation of NAC 704.79601 to 704.79665, inclusive.

704.79661 Violations: Procedure for processing complaints; log of complaints. (NRS 703.025)

1. Upon receiving an oral or a written complaint, a provider of last resort shall forthwith refer the complaint to a designated representative of the provider of last resort, who shall:

(a) Acknowledge receipt of the complaint in writing to the complainant within 5 business days after receiving the complaint;

(b) Prepare a written summary of the complaint, which includes, without limitation:

(1) The name of the complainant; and

(2) A detailed report of the facts as set forth in the complaint, including, without limitation:

(I) The relevant dates;

(II) The names of the employees alleged to be involved; and

(III) The details of the claim;

(c) Conduct a preliminary investigation of the complaint; and

(d) Communicate the results of the preliminary investigation, including, without limitation, a description of any course of action that was or will be taken as a result of the investigation, in

writing to the complainant not more than 20 business days after the designated representative received the complaint.

2. A provider of last resort shall:

(a) For all new, pending and resolved complaints, maintain a log of the complaints filed with the provider of last resort pursuant to this section; and

(b) Make the log available to the commission and the bureau of consumer protection in the office of the attorney general not more than 10 business days after the end of each month.

3. A log maintained by a provider of last resort pursuant to this section must include, without limitation:

(a) A written summary of each complaint; and

(b) A written summary of the manner in which each complaint was resolved or, if the complaint has not been resolved, an explanation of the reason why the complaint is still pending.

704.79663 Violations: Investigation of complaint; notice and hearing. (NRS 703.025)

1. The commission will investigate any complaint it receives concerning an alleged violation of NAC 704.79601 to 704.79665, inclusive.

2. Upon the request of a complainant who is a current or former employee of a provider of last resort, the commission will maintain the confidentiality of the identity of the complainant until the end of its investigation, or longer if the commission deems that such confidentiality is necessary or appropriate.

3. If the commission determines that probable cause exists for the complaint, the commission will:

(a) Order that a hearing be held;

(b) Provide notice of the hearing to the parties to the complaint; and

(c) Conduct the hearing as it would conduct any other hearing.

704.79665 Enforcement of provisions or order of commission; penalties. (NRS 703.025, 704.979) After a hearing has been held pursuant to NAC 704.79663 the commission may, to enforce the provisions of NAC 704.79601 to 704.79665, inclusive, or any order of the commission relating thereto:

1. For a utility provider of last resort, assess a penalty against the utility pursuant to NAC 704.7919;

2. For any other provider of last resort, assess a penalty against the provider pursuant to NAC 704.79757; and

3. Apply any other appropriate remedy to, or assess any other appropriate penalty against, the utility provider of last resort or other provider of last resort that is available to the commission.

704.79701 Definitions. (NRS 703.025, 704.976) As used in NAC 704.79701 to 704.79713, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.79703, 704.79705 and 704.79707 have the meanings ascribed to them in those sections.

704.79703 “Electric service” defined. (NRS 703.025, 704.976) “Electric service” has the meaning ascribed to it in NRS 704.971.

704.79705 “Noncompetitive service” defined. (NRS 703.025, 704.976) “Noncompetitive service” has the meaning ascribed to it in NRS 704.973.

704.79707 “Potentially competitive service” defined. (NRS 703.025, 704.976) “Potentially competitive service” has the meaning ascribed to it in NRS 704.974.

704.79709 Application. (NRS 703.025, 704.976)

1. Any interested person may file an application to request that the commission classify an electric service as a potentially competitive service.

2. An application filed pursuant to subsection 1 must be submitted to the commission and must, in addition to the requirements set forth in NAC 703.535:

(a) Describe and identify fully the electric service to be classified as a potentially competitive service, including, without limitation:

(1) The technical and common names of the electric service.

(2) The facilities and equipment that are or will be used to provide the electric service.

(3) The components of electric service that are necessary to provide the electric service, other than those components for which classification as a potentially competitive service is being sought.

(4) The geographic market area for which the classification of the electric service as a potentially competitive service is being sought.

(5) The nature and extent of the market in which the electric service is or will be provided, including, without limitation:

(I) The class of customers for that electric service.

(II) The source of revenues for that electric service.

(b) Provide all facts necessary to support classification of the electric service as a potentially competitive service, including, without limitation, facts that support the determination required pursuant to subsection 3 of NRS 704.976.

(c) Contain an acknowledgment that the applicant has served a copy of the application upon the existing provider of the electric service sought to be reclassified as a potentially competitive service.

3. The geographic market area identified pursuant to subparagraph (4) of paragraph (a) of subsection 2 must not extend beyond the boundaries of the certificated service area of more than one vertically integrated electric utility, as that term is defined in NRS 704.975.

4. As used in this section, “person” means a natural person, any form of business or social organization and any other legal entity, including, without limitation, a corporation, partnership, association, trust, unincorporated organization, government, governmental agency or political subdivision of a government.

704.79711 Determination by commission. (NRS 703.025, 704.976) If the commission receives a request to classify an electric service as a potentially competitive service and that request meets the requirements set forth in NAC 704.79709, the commission will, if the electric service meets the requirements set forth in subsection 3 of NRS 704.976:

1. Determine that the service is a potentially competitive service; and
2. Establish an appropriate period in which a provider of noncompetitive service who provides the service determined to be potentially competitive must:
 - (a) Cease to provide the service determined to be potentially competitive; or
 - (b) Provide the service determined to be potentially competitive through an affiliate, as authorized pursuant to NRS 704.978 and 704.980.

704.79713 Failure of commission to determine that electric service is potentially competitive. (NRS 703.025, 704.976) If, after a request is made to the commission pursuant to NAC 704.79709, the commission does not determine that an electric service is a potentially competitive service, the commission will deem the electric service to be a noncompetitive service.

704.79721 Definitions. (NRS 703.025, 704.977, 704.979) As used in NAC 704.79721 to 704.79759, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.79723 to 704.79741, inclusive, have the meanings ascribed to them in those sections.

704.79723 “Affiliate” defined. (NRS 703.025, 704.977) “Affiliate” means any entity which provides energy or services related to the provision of energy in the United States and which controls, is controlled by or is under common control with an applicant for licensure as an alternative seller or a licensed alternative seller, as appropriate.

704.79725 “Aggregation service” defined. (NRS 703.025, 704.977) “Aggregation service” has the meaning ascribed to it in NRS 704.966.

704.79727 “Alternative seller” defined. (NRS 703.025, 704.977) “Alternative seller” has the meaning ascribed to it in NRS 704.967.

704.79729 “Distribution service” defined. (NRS 703.025, 704.977) “Distribution service” means the service provided over the physical distribution plant of delivery from the transmission system to the end-use customer.

704.79731 “Electric distribution utility” defined. (NRS 703.025, 704.977) “Electric distribution utility” has the meaning ascribed to it in NRS 704.970.

704.79733 “End-use customer” defined. (NRS 703.025, 704.977) “End-use customer” means a retail customer of a potentially competitive service.

704.79735 “Generation service” defined. (NRS 703.025, 704.977) “Generation service” has the meaning ascribed to it in NRS 704.972.

704.79737 “Potentially competitive service” defined. (NRS 703.025, 704.977) “Potentially competitive service” has the meaning ascribed to it in NRS 704.974.

704.79739 “Provider of last resort” defined. (NRS 703.025, 704.977) “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.

704.79741 “Residential and small commercial customer” defined. (NRS 703.025, 704.977) “Residential and small commercial customer” means any customer who:

1. Receives residential electric service; or
2. Has an average monthly energy usage of less than 3,500 kilowatt-hours over the last 12 months.

704.79743 Application for license. (NRS 703.025, 704.977) A person who wishes to provide a potentially competitive service as an alternative seller must apply to the commission for a license to be an alternative seller. The application must include:

1. The legal name of the applicant and all other names under which the applicant is doing business in the United States.
2. The current telephone number, mailing address and physical street address of the applicant.
3. The type of business entity that the applicant is organized as and the date on which, and the place where, the business entity was formed.
4. A copy of each business license and certificate issued by this state and any local government within this state authorizing the applicant to conduct business in this state.
5. A list and description of all affiliates of the applicant that are located in the United States.
6. The names and business addresses of:
 - (a) The officers, directors or partners of the applicant; or

(b) The members of the applicant if the applicant is a limited-liability company.

7. The telephone number of the department or person responsible for providing customer service for the applicant.

8. The name, title and telephone number of the regulatory contact person for the applicant.

9. The name, title and address of the registered agent of the applicant in Nevada for service of process.

10. The most recent annual report filed with the Securities and Exchange Commission, if any.

11. A disclosure of all:

(a) Civil, criminal and regulatory sanctions and penalties imposed within the previous 5 years pursuant to any state or federal law or regulation relating to consumer protection on:

(1) The applicant or any affiliates thereof;

(2) Any officer, director or partner of the applicant, or any affiliate thereof; and

(3) If the applicant is a limited-liability company, any member of the applicant; and

(b) Felony convictions within the previous 5 years that relate to the business of the applicant or an affiliate thereof, of:

(1) Any officer, director or partner of the applicant or any affiliate thereof; and

(2) If the applicant is a limited-liability company, any member of the applicant.

12. A list of each potentially competitive service the applicant expects to offer, the date on which the applicant intends to begin marketing activities associated with the provision of each such service and the date on which the applicant expects to begin providing each such service.

13. The names of the electric distribution utilities in whose service territories the applicant intends to market the potentially competitive services.

14. A demonstration of the ability of the applicant to provide the potentially competitive services proposed in its application, including, without limitation, prior experience in the provision of those services and the qualifications of the technical personnel at the executive and managerial levels who will be responsible for the provision of the services.

15. If the applicant intends to provide or market any potentially competitive service through a contractor:

(a) A description of each type of service to be provided or marketed through the contractor and of the group of customers to whom the service will be provided or marketed; and

(b) The name and telephone number of the contractor and a contact person for the contractor.

16. If the applicant is applying to provide any generation or aggregation services, evidence of creditworthiness showing that the applicant is capable of complying with NAC 704.79745.

17. If the applicant is currently providing, or has provided in the previous 5 years, any generation, aggregation or other potentially competitive service in any jurisdiction in the United States other than Nevada:

(a) A list of all applicable certificates, registrations and licenses, with the associated document numbers, currently held, or held in the previous 5 years, in those jurisdictions authorizing the applicant to provide electricity and services relating to the provision of electricity in those jurisdictions; and

(b) A brief description of the services provided in each such jurisdiction.

If the applicant is not currently providing, and has not provided in the previous 5 years, any generation, aggregation or other potentially competitive service in any jurisdiction in the United States other than Nevada, the applicant shall so state on the application.

18. A toll-free number for the applicant's customer service.

19. If the applicant is applying to provide any generation, aggregation or other potentially competitive service to residential and small commercial customers:

(a) A statement of intent that the applicant will provide security to the electric distribution utility from which the alternative seller will be obtaining generation, aggregation or other potentially competitive services in an amount and of a type specified by the applicable regulations of the commission; and

(b) A statement of intent that the applicant will provide to the commission copies of all brochures, labels and other informational statements as required by the applicable regulations of the commission.

20. If the applicant or any of its affiliates has ever engaged in the provision of any electric service in this or any other state, a report of all instances of lapses in the standards of reliability within the previous 3 years that were determined to be the fault of the applicant or affiliate, including, without limitation, unplanned outages, failures to meet service obligations and any other deviations from the standards of reliability. The report must include for each instance of such a lapse:

(a) A description of the lapse in the standards of reliability, including, without limitation, the duration and cause of the lapse;

(b) The number of customers affected by the lapse;

(c) Any reports, findings or issuances by regulators or any organization established to ensure the reliability of the electric system relating to the lapse;

(d) A description of any penalties imposed on the applicant or affiliate because of the lapse;
and

(e) A statement of whether the problem that caused the lapse was solved and, if so, a description of the remedy.

21. If the applicant plans to use an outside company to solicit individual customers on behalf of the applicant in person, by telephone or electronically:

- (a) The name and telephone number of the company; and
- (b) The name of the contact person for the company.

704.79745 Bond rating or security deposit requirement; amount of security deposit.
(NRS 703.025, 704.977)

1. Except as otherwise provided in subsection 2, an alternative seller that provides generation or aggregation service shall have and maintain a long-term bond rating, or other senior debt rating, of at least BBB- or an equivalent rating as determined by Standard & Poor's Ratings Services or another recognized debt rating service in the United States or Canada.

2. In lieu of having and maintaining the long-term bond rating or other senior debt rating required pursuant to subsection 1, an alternative seller that provides generation or aggregation service may maintain a security deposit that is made payable to the commission. The security deposit must be in the form of:

- (a) A renewable surety bond issued by a major insurance company; or
- (b) A guarantee with a guarantor possessing a credit rating of Baa2 or higher from Moody's Investors Service or BBB or higher from Standard & Poor's Ratings Services, Fitch IBCA or Duff & Phelps Credit Rating Company, except that if the commission determines that a material change in the creditworthiness of the guarantor has occurred, the commission may require the alternative seller to use a different guarantor.

3. The security deposit required pursuant to subsection 2 is an amount equal to the revenue required by a provider of last resort to provide service to the customers of the alternative seller for 2 months, except that the initial security deposit required is the greater of \$250,000 or an amount calculated by using the rates for service if provided by a provider of last resort multiplied by a good faith estimate of the expected load to be provided by the alternative seller during its first 2 months of operation. The alternative seller shall, every 6 months after the date on which it first provides service to customers, update the security deposit based on the average load of electricity it provided to its customers during that 6-month period.

**704.79747 Documentation required before requesting payment or providing service.
(NRS 703.025, 704.977)**

1. At least 10 business days before requesting or accepting any fees, deposits or other payments of any kind from any residential and small commercial customer located in Nevada, a licensed alternative seller which will provide generation or aggregation service must file with the commission proof that the electric distribution utility serving the territory in which the alternative seller intends to provide service has authorized the alternative seller to file service request forms for distribution service pursuant to the distribution tariff of the electric distribution utility. Before providing any potentially competitive service, an alternative seller must file with the commission any other documentation that the commission requests regarding the provision of that service.

2. The provisions of this section do not preclude a licensed alternative seller from advertising or accepting enrollments for any service that it has been licensed by the commission to sell before satisfying the requirements of subsection 1.

704.79749 Contract with customer conditioned on compliance with provisions. (NRS 703.025, 704.977) Any contract entered into by an alternative seller with a customer must be conditioned on the compliance of the alternative seller with NAC 704.79721 to 704.79759, inclusive.

704.79751 Compliance with certain rules, procedures and obligations. (NRS 703.025, 704.977) An alternative seller shall comply with all:

1. Applicable rules and procedures of any governmental or private institution charged with ensuring the reliability of the electric system, including:

- (a) The Western System Coordinating Council;
- (b) The Western Regional Transmission Association;
- (c) The Southwest Regional Transmission Association;
- (d) The Northwest Regional Transmission Association;
- (e) The North American Electric Reliability Council;
- (f) The Federal Energy Regulatory Commission; and
- (g) Any other similar entity identified by the commission; and

2. Obligations that the commission may impose to ensure sufficient availability of capacity of the alternative seller pursuant to subsection 2 of NRS 704.988.

704.79753 Compliance with generally accepted technical protocols and regulations; exception. (NRS 703.025, 704.977) An alternative seller that applies to provide any potentially competitive service shall comply with generally accepted technical protocols and regulations relating to the provision of that service, as required by the commission, unless the service which the alternative seller is providing is from another alternative seller licensed to provide that service in this state.

704.79754 Metering services: Accordance with universal metering services tariff.

(NRS 703.025, 704.979)

1. An alternative seller that provides metering services shall provide those services in accordance with the terms and conditions of the universal metering services tariff.

2. An alternative seller that subcontracts for any metering services, including, without limitation, services relating to the reading of a meter and the management of data from a meter, shall ensure that all such services are provided in accordance with the terms and conditions of the universal metering services tariff.

3. As used in this section:

(a) "Metering services" includes, without limitation:

(1) Services for end-use customers, including:

(I) The provision of meters to the end-use customer;

(II) The operation and maintenance of a meter, including the installation, testing, calibration and repair of metering equipment; and

(III) Reading meters, including reading meters for the purposes of billing, and performing checks on the reading of meters at the request of customers concerned that their meters were read in error; and

(2) Services relating to management of data from a meter.

(b) "Universal metering services tariff" means the tariff schedules applicable to metering and related services provided by licensed alternative sellers operating in this state which have been accepted by the commission pursuant to the docket of the commission entitled "Docket No. 97-8001."

704.79755 Certain changes in information on application to be reported to commission; prior authorization required for change of business name. (NRS 703.025, 704.977)

1. A licensed alternative seller shall inform the commission of any change in the name, address or telephone number of the licensed alternative seller, and of any change of its registered agent in Nevada for service of process, within 20 business days after the change occurs.

2. A licensed alternative seller shall update the information contained in its application within 20 business days after a change in the information if the change:

(a) Materially reduces the financial condition or technical capabilities of the licensed alternative seller; or

(b) Involves any civil, criminal or regulatory sanctions or penalties that have been imposed by any state, or involves felony convictions in any state.

3. A licensed alternative seller shall not change its name or the name under which it conducts business in this state without obtaining the prior authorization of the commission.

704.79757 Grounds for denial, revocation, suspension or limitation of license; penalties; notification; hearing; determination of commission; summary suspension; reapplication for license; pursuit of civil relief by person aggrieved. (NRS 703.025, 704.977, 704.979)

1. After notice and opportunity for hearing, the commission may deny an application of an alternative seller for licensure, or if a license has been issued to the alternative seller, revoke, suspend or limit the license, or place the license on probationary status, if:

(a) The alternative seller, or any officer, director or executive of the alternative seller, provides information in its application that is materially incomplete, false or misleading, or fails to update the application in a timely manner;

(b) The alternative seller or any affiliate thereof, or any officer, director or executive of the alternative seller or affiliate, violates any applicable provision of NRS 704.965 to 704.990, inclusive, or any applicable regulation of the commission;

(c) The alternative seller or any affiliate thereof has engaged in any activity that is inconsistent with effective competition relating to the provision of electric service;

(d) The alternative seller or any affiliate thereof, or:

(1) Any officer, director or partner of the alternative seller or affiliate; or

(2) If the alternative seller is a limited-liability company, any member of the alternative seller, violates any state or federal law relating to consumer protection or is convicted of a felony related to the business of the alternative seller or affiliate;

(e) The alternative seller or any affiliate thereof, or:

(1) Any officer, director or partner of the alternative seller or affiliate; or

(2) If the alternative seller is a limited-liability company, any member of the alternative seller, violates any nationally or regionally accepted standard relating to the reliability of the electric system; or

(f) The alternative seller possesses physical or financial resources that are or have become inadequate to ensure compliance with all of its responsibilities pursuant to NRS 704.965 to 704.990, inclusive, or any applicable regulation of the commission, or if the services provided by

the alternative seller under its license or its ability to perform the services which are the subject of its application are inadequate.

2. In addition to any other penalties that may apply, the commission may order a licensed alternative seller that violates any applicable provision of NRS 704.965 to 704.990, inclusive, or any applicable regulation of the commission, to abide by specific conditions ordered by the commission or to pay:

(a) Compensation for individual complaints which are specific to the case against the alternative seller;

(b) Restitution to all customers harmed;

(c) A monetary fine in an amount intended to negate any profits made as a result of the violation of any provision of NRS 704.965 to 704.990, inclusive, or any applicable regulation of the commission, by the alternative seller; or

(d) Compensation to the appropriate provider of last resort for an appropriate share of the cost of procuring capacity and energy incurred by the provider of last resort for customers of the alternative seller.

3. The commission may suspend the license of an alternative seller in accordance with NRS 233B.127 if the alternative seller fails to submit:

(a) Any information required to be submitted pursuant to any applicable regulation of the commission; or

(b) Any relevant information ordered by the commission, until such time as the alternative seller submits the required information.

4. The commission will include in the notice which it issues for a hearing to be held pursuant to this section notification to:

(a) The alternative seller that all electric distribution utilities from which the alternative seller obtains distribution service have been advised that they may be ordered to discontinue service to the alternative seller; and

(b) The provider of last resort that the customers of the alternative seller may be transferred to the provider of last resort.

5. If the commission finds that there is probable cause that an alternative seller has violated any provision of this chapter or chapter 703 of NAC, the commission will:

(a) Notify the alternative seller by certified mail and describe the evidence of the violation;

(b) Issue a public notice for a hearing;

(c) Hold a public hearing on the matter; and

(d) If, based on the findings of fact and the evidence presented at the hearing, the commission determines that a violation has occurred, issue a decision which may include the imposition of penalties.

6. If the commission finds that public health, safety or welfare imperatively requires that emergency action be taken, the commission may, pursuant to subsection 3 of NRS 233B.127, order a summary suspension of the license of the alternative seller pending expedited proceedings for revocation of the license or other action to be taken against the alternative seller.

7. An alternative seller whose license has been revoked is not precluded from filing an application for a new license and attempting to demonstrate the fitness of the alternative seller and its ability to comply with all of the applicable regulations and rules of the commission.

8. Any person aggrieved by any violation by an alternative seller of any applicable regulation of the commission may pursue any civil relief that may be available under state or federal law, including, without limitation, private actions for enforcement of the applicable

regulations of the commission, without regard to or first pursuing any remedies provided by the commission.

704.79759 Application signed by authorized officer of applicant attesting to truth of information contained therein. (NRS 703.025, 704.977)

1. An application for a license as an alternative seller must be signed by an officer of the applicant who has appropriate authority, under penalty of perjury, attesting that all information supplied on the application is true and correct and that, once licensed, the officer will ensure, to the best of his ability, that the alternative seller will comply with all applicable regulations of the commission.

2. The signature of the officer on an application constitutes a representation that:

- (a) The person signing the application has read the application;
- (b) To the best of his knowledge, there are good grounds to support the application; and
- (c) The information in the application is true to the best of his knowledge and belief.

704.79761 Definitions. (NRS 703.025, 704.977) As used in NAC 704.79761 to 704.79773, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.79763 and 704.79765 have the meanings ascribed to them in those sections.

704.79763 “Alternative seller” defined. (NRS 703.025, 704.977) “Alternative seller” has the meaning ascribed to it in NRS 704.967 and includes a provider of last resort to the extent that the provider is not a public utility.

704.79765 “Provider of last resort” defined. (NRS 703.025, 704.977) “Provider of last resort” means an entity designated to provide electric service pursuant to NRS 704.982.

704.79767 Rate; credit claim. (NRS 703.025, 704.977)

1. The commission will levy upon each alternative seller subject to its jurisdiction, and collect therefrom, an annual licensing fee.

2. Except as otherwise provided in this section, the annual licensing fee is payable at the same rate as the rate used to assess public utilities for the use of the commission and the use of the consumer's advocate of the bureau of consumer protection in the office of the attorney general pursuant to NRS 704.033, based on gross revenues derived from jurisdictional sales of the alternative seller during the calendar year preceding the year in which the fee is payable. In no event will the annual licensing fee be less than \$10.

3. An alternative seller may claim a credit against the annual licensing fee for fees paid to regulated public utilities or other alternative sellers for services that are purchased for intrastate resale during the calendar year preceding the year in which the annual licensing fee is payable.

4. The annual licensing fee required to be paid pursuant to this section is in addition to, and not in lieu of, any other fee or assessment required to be paid by the alternative seller.

704.79769 Revenue report form; payment; penalty. (NRS 703.025, 704.977)

1. On or before June 1 of each year, the commission will mail revenue report forms to all alternative sellers, to the addresses on file with the commission. The revenue report form serves as notice of the commission's intent to collect an annual licensing fee, but failure on the part of the commission to notify any alternative seller does not invalidate the requirement of the alternative seller to pay the fee.

2. Each alternative seller shall complete the revenue report form, compute the amount of the fee owed, and return the completed form to the commission accompanied by the payment of the fee and any penalty due pursuant to the provisions of subsection 5.

3. The annual licensing fee is due on July 1 of each year, but may, at the option of the alternative seller, be paid quarterly on July 1, October 1, January 1 and April 1.

4. The annual licensing fee and any penalty computed by the alternative seller is subject to review and audit by the commission, and the amount of the fee and any penalty may be adjusted by the commission as a result of the audit and review.

5. Any alternative seller who fails to pay the annual licensing fee on or before August 1 or, if paying quarterly, on or before August 1, October 1, January 1 or April 1, shall pay, in addition to the fee, a penalty of 1 percent of the total unpaid balance for each month or portion thereof that the fee is delinquent or \$10, whichever is greater. In no event will a penalty exceed \$1,000 for each delinquent payment.

704.79771 Action by commission to collect fee or penalty. (NRS 703.025, 704.977) The commission may bring an appropriate action in its own name for the collection of any fee or penalty which is not paid pursuant to NAC 704.79767 and 704.79769.

704.79773 Transfer to account for consumer's advocate. (NRS 703.025, 704.977) The commission will, on a quarterly basis, transfer to the account for the consumer's advocate in the bureau of consumer protection in the office of the attorney general that portion of the fees and penalties collected pursuant to NAC 704.79767, 704.79769 and 704.79771 which was assessed for the use of the consumer's advocate or which is attributable to that assessment.

704.79781 Definitions. (NRS 703.025, 704.977, 704.979, 704.985) As used in NAC 704.79781 to 704.79849, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.79783 to 704.79797 have the meanings ascribed to them in those sections.

704.79783 "Customer" defined. (NRS 703.025, 704.977, 704.979, 704.985) "Customer" has the meaning ascribed to it in NRS 704.968.

704.79785 “Deposit” defined. (NRS 703.025, 704.977, 704.979, 704.985) “Deposit” means security provided by a customer to an alternative seller to ensure payment for service provided by the alternative seller.

704.79787 “Distribution tariff” defined. (NRS 703.025, 704.977, 704.979, 704.985) “Distribution tariff” means the standard tariff filed with the commission by an electric distribution utility.

704.79789 “Division” defined. (NRS 703.025, 704.977, 704.979, 704.985) “Division” means the division of consumer complaint resolution of the commission.

704.79791 “Electricity Facts label” defined. (NRS 703.025, 704.977, 704.979, 704.985) “Electricity Facts label” means a label of facts about electricity relating to each product offered by the alternative seller to residential and small commercial customers.

704.79793 “Provider of last resort” defined. (NRS 703.025, 704.977, 704.979, 704.985) “Provider of last resort” means an 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.

704.79795 “Residential and small commercial customer” defined. (NRS 703.025, 704.977, 704.979, 704.985) “Residential and small commercial customer” means any:

1. Customer who receives residential electric service; or
2. Customer with an average monthly energy usage less than 3,500 kilowatt hours over the last 12 months.

704.79797 “Terms of Service brochure” defined. (NRS 703.025, 704.977, 704.979, 704.985) “Terms of Service brochure” means a brochure created by an alternative seller which sets forth the services which the alternative seller can provide to residential and small

commercial customers and the terms pursuant to which the services will be provided to those customers.

704.79799 Applicability of provisions. (NRS 703.025, 704.977, 704.979, 704.985) The provisions of NAC 704.79801, 704.79805, 704.79807 and 704.79811 to 704.79843, inclusive, apply to an alternative seller only when the alternative seller provides generation or aggregation services to residential and small commercial customers.

704.79801 Security requirement: Cash deposit, financial guarantee bond or customer trust account; amount. (NRS 703.025, 704.977, 704.979, 704.985)

1. At least 10 business days before submitting its first service request form to an electric distribution utility, a licensed alternative seller shall:

- (a) Post a cash security deposit of \$10,000 with the electric distribution utility;
- (b) Post a financial guarantee bond or other form of insurance in the amount of \$10,000, payable to the electric distribution utility; or
- (c) Open a customer trust account in the amount of \$10,000 in a bank or other financial institution which is federally insured or otherwise authorized to do business in this state.

2. A financial guarantee bond posted as security pursuant to subsection 1 must carry an endorsement that allows the issuer of the bond or the insurer to pay such amounts, and in such a manner, as ordered by the commission. Any form of security provided pursuant to subsection 1 must be for the exclusive protection of residential and small commercial customers in Nevada.

3. The security posted pursuant to this section must be increased by an amount equal to \$100 for each residential or small commercial customer of the alternative seller in excess of the first 100 such customers enrolled into the service of the alternative seller, as adjusted quarterly by the electric distribution utility. Additional deposits are not required after 1,000 such

customers are enrolled. Upon request, a licensed alternative seller shall provide information on the number of its customers to the electric distribution utility in a timely manner.

4. As used in this section, “customer trust account” means an account into which all revenues paid to an alternative seller are deposited and which is overseen by a trustee who pays the obligations of the alternative seller before paying any remaining revenues to the alternative seller.

704.79803 Phone number for customer to report certain problems to be listed on bill. (NRS 703.025, 704.977, 704.979, 704.985) An alternative seller offering generation or aggregation services shall list on each bill that the alternative seller sends to its customers for those services the telephone number of the electric distribution utility which customers may call 24 hours a day, 7 days a week to report outages and other safety-related issues relating to the distribution system of the electric distribution utility.

704.79805 Deadlines for submission of certain documents to commission. (NRS 703.025, 704.977, 704.979, 704.985)

1. At least 15 business days before an alternative seller submits its first service request form to an electric distribution utility, the alternative seller shall provide the commission with:

(a) A copy of the Terms of Service brochure created by the alternative seller in accordance with NAC 704.79827 to 704.79835, inclusive; and

(b) Copies of Electricity Facts labels which the alternative seller is required to include in a Terms of Service brochure pursuant to subsection 2 of NAC 704.79827 and in its advertisements pursuant to subsection 1 of NAC 704.79837,

for each product offered by the alternative seller to residential and small commercial customers.

2. After the market opens for potentially competitive services, no later than January 31 and July 31 of each year, an alternative seller shall provide the commission:

(a) A current copy of the Terms of Service brochure created by the alternative seller in accordance with NAC 704.79827 to 704.79835, inclusive; and

(b) Current copies of the Electricity Facts labels which the alternative seller is required to include in a Terms of Service brochure pursuant to subsection 2 of NAC 704.79827 and in its advertisements pursuant to subsection 1 of NAC 704.79837, for each product being offered by the alternative seller to residential and small commercial customers as of that January 31 and July 31, except that if no changes have been made in the brochure or label from the brochure or label most recently provided to the commission, the alternative seller shall submit a statement stating that fact in lieu of submitting the brochure or label.

704.79807 Responsibilities regarding entity contracted with to solicit customers. (NRS 703.025, 704.977, 704.979, 704.985) If an alternative seller that offers generation service, aggregation service or any other potentially competitive service to residential and small commercial customers has contracted with a separate entity to solicit individual customers, in person, by telephone or electronically, on behalf of the alternative seller, the alternative seller shall ensure that the entity:

1. Clearly advises the customers which it contacts that the entity is marketing on behalf of the alternative seller;

2. Complies with all applicable laws, decisions and orders of the commission; and

3. Includes the name of the alternative seller on all advertising, marketing and billing materials, and communications of the entity relating to the alternative seller.

704.79809 Certifications regarding personnel who enter premises of customer. (NRS 703.025, 704.977, 704.979, 704.985) An alternative seller that offers any potentially competitive service which requires its personnel to enter onto the premises of a customer shall, at least 30 days before the date on which the provision of the potentially competitive service will commence, certify that the personnel have the training and knowledge to comply with the generally accepted technical protocols approved by the commission that are applicable to the service to be provided.

704.79811 Authorization of customer to be obtained before submitting service request form; retention and contents of evidence of authorization. (NRS 703.025, 704.977, 704.979, 704.985)

1. Before submitting a service request form to an electric distribution utility on behalf of a new customer pursuant to the distribution tariff of the electric distribution utility, an alternative seller shall obtain the authorization of the customer, in writing, via electronic mail or over the telephone, for the alternative seller to submit the service request form to the electric distribution utility on behalf of the customer.

2. An alternative seller shall retain evidence of the authorization of a customer obtained pursuant to subsection 1, including, without limitation, copies of the written authorization, authorizations transmitted via electronic mail, tapes of the phone conversation or other similar evidence, for at least 12 months. The evidence must contain:

- (a) The name and address of the customer;
- (b) The date on which the authorization was obtained;
- (c) The name of the product, pricing plan or service that is being subscribed; and

(d) An acknowledgement that the alternative seller has informed the customer of all applicable switching fees, minimum contract terms, usage requirements and penalties for canceling the product, plan or service before the end of the minimum term of the contract.

704.79813 Distribution of Terms of Service brochure; cancellation of contract by customer; notification of change in charges. (NRS 703.025, 704.977, 704.979, 704.985) An alternative seller shall:

1. Provide a Terms of Service brochure which it creates pursuant to NAC 704.79827 to 704.79835, inclusive:

(a) Upon receiving the authorization of a new customer for the alternative seller to provide service to that customer pursuant to NAC 704.79811, to the new customer at least 3 days before the alternative seller submits a service request form on behalf of the customer to an electric distribution utility pursuant to the distribution tariff of the electric distribution utility;

(b) To each of its customers at least annually;

(c) To any person upon request;

(d) In English or Spanish, as specified by the customer; and

(e) In an electronic or a printed form, if requested by the customer.

2. Allow a customer to cancel, without a fee or penalty, any contract within 5 business days after the customer receives the Terms of Service brochure from the alternative seller.

3. Notify each customer in a conspicuous written statement entitled “Notice of New Terms” of any changes in prices, fees or other charges at least 10 business days before the date on which the change is to take effect.

704.79815 Maximum amount of customer deposit, interest and late fees; reasons for return of deposit; calculation of bill based on estimated usage allowed in certain circumstances. (NRS 703.025, 704.977, 704.979, 704.985)

1. An alternative seller shall not collect a deposit from a customer which exceeds an amount equal to 150 percent of the estimated average monthly charge which the alternative seller will collect from the customer. If the customer has made timely payments to an alternative seller for 12 consecutive months, the alternative seller shall return any deposit paid by a customer to the customer, including interest calculated at the rate set forth in NRS 704.655 for customer deposits.

2. An alternative seller shall not charge interest or late fees which are in excess of 1.5 percent of the amount due per month.

3. An alternative seller shall return any deposits and release a customer from any obligations that result from the early termination of a contract if:

- (a) The license of the alternative seller is suspended or revoked; or
- (b) If the customer moves to a new residence which is outside of the territory served by the alternative seller.

4. When circumstances beyond the control of an alternative seller are present, the alternative seller may calculate the bill of a customer based upon an estimated usage of the customer. In calculating a bill based upon estimated usage, the alternative seller shall consider:

- (a) The usage of the customer during the same month of the preceding year, if applicable;
- (b) Any change in temperature from the preceding month;
- (c) The usage of the customer during the preceding month, if applicable; and
- (d) Seasonal load factors.

The alternative seller shall notify the customer of the circumstances that caused the bill to be estimated. Circumstances beyond the control of the alternative seller, include, without limitation, severe weather, the presence of an animal on the premises of the customer which prevents an employee of the alternative seller from reading the meter without risk of injury and any other circumstance which makes it unreasonably difficult to read the meter of the customer.

5. If an alternative seller calculates a bill of a customer based on the estimated usage pursuant to subsection 4, the alternative seller shall adjust the estimated usage of a customer upon the first reading of the meter of the customer after an estimated reading was made.

704.79817 Toll-free telephone number to be available to customers. (NRS 703.025, 704.977, 704.979, 704.985) An alternative seller shall have a toll-free telephone number which its customers can call during specified hours to get answers to their questions or to make complaints about their bills.

704.79819 Notice to customer when service is declined; reasons to be disclosed upon request. (NRS 703.025, 704.977, 704.979, 704.985) If an alternative seller declines to provide service to a customer, the alternative seller shall inform the customer of his right to obtain a written statement from the alternative seller disclosing the reasons why the alternative seller declined to provide the service. Upon the verbal or written request of a customer, an alternative seller shall disclose its reasons for declining to provide the service to the customer in writing within 3 business days after receiving the request.

704.79821 Notification of cancellation: Information to be included. (NRS 703.025, 704.977, 704.979, 704.985) At least 20 business days before an alternative seller may cancel a contract with a customer, the alternative seller shall send notification of cancellation to the customer which includes:

1. The reason for the cancellation of the contract.
2. The actions, if any, that the customer may take to avoid the cancellation of the contract.
3. If the customer is in default, the amount of all fees or charges which will be assessed against the customer as a result of the early termination of the contract, if any, as set forth in the Terms of Service brochure provided to the customer at the time that the contract was executed, as updated pursuant to the most recent notice of new terms sent to the customer by the alternative seller pursuant to subsection 3 of NAC 704.79813.

4. Any amount overdue.

5. A toll-free telephone number which the customer can use to call the alternative seller to discuss the notice of cancellation or to file a complaint, and the following statement:

If you are not satisfied with our response to your inquiry or complaint, you can contact the Public Utilities Commission of Nevada and file a complaint by calling or writing to the Consumer Complaint Resolution Division of the Public Utilities Commission in Carson City or Las Vegas.

The statement must include the current telephone numbers and mailing addresses for the commission.

6. A statement that informs the customer of his right to obtain services from another licensed alternative seller or a provider of last resort, and that information about other alternative sellers or the provider of last resort can be obtained from the division and the provider of last resort.

7. If a deposit is being held by the alternative seller on behalf of the customer, a statement that the deposit will be refunded to the customer or applied against the final bill of the customer, or both.

8. Notification advising the customer that if the customer does not select another alternative seller by a certain date, which must be at least 20 business days after the date on which the notice of cancellation is sent, the customer will be automatically assigned to a provider of last resort for service.

9. The availability of deferred payment or other billing arrangements from the alternative seller, and the availability of any state or federal payment assistance programs and information on how to get further information about those programs.

10. A description of the activities that the alternative seller will use to collect payment, including the use of debt collection agencies, small claims court and other legal remedies allowed by law, if the customer does not pay or make acceptable arrangements with the alternative seller. The alternative seller shall not state or imply that nonpayment by the customer will affect his ability to access the electric distribution system.

704.79823 Preparation, maintenance and contents of records; submission of information to certain entities; certain information not to be disclosed; notification of pending termination upon customer request. (NRS 703.025, 704.977, 704.979, 704.985)

1. An alternative seller shall prepare and maintain records for each customer for at least 2 years, or as long as available if less than 2 years. The records for a customer must contain information concerning:

- (a) Payment performance of the customer;
- (b) Usage of electric energy by the customer for each billing period;
- (c) The number of discontinuances and reestablishments of service to the customer;
- (d) The number of deposits which have been collected from and returned to the customer;

and

(e) The number and a general description of written complaints filed with the alternative seller by the customer.

2. An alternative seller shall, upon the request of the commission, submit to the commission or a provider of last resort, or both, a written summary of the information contained in the records kept by the alternative seller pursuant to subsection 1 relating to a particular customer.

3. An alternative seller shall, upon the request of another alternative seller which has received authorization from a customer for the other alternative seller to provide service to the customer, submit to the requesting alternative seller data on the monthly usage of the customer for the previous 12 months, or for as long as the alternative seller has provided service to the customer, whichever is shorter.

4. An alternative seller shall not publicly disclose or make available for sale any data about its customers which was provided to the alternative seller pursuant to a distribution tariff of an electric distribution utility.

5. Upon the request of a customer, an alternative seller shall notify a third person chosen by the customer of any pending termination of services to the customer.

704.79825 Notification to commission of planned discontinuation of service. (NRS 703.025, 704.977, 704.979, 704.985) An alternative seller shall notify the commission at least 45 business days before any planned discontinuation by the alternative seller of service to residential and small commercial customers.

704.79827 Terms of Service brochure: Required information. (NRS 703.025, 704.977, 704.979, 704.985) For each service or product which it offers, an alternative seller shall create a Terms of Service brochure which must prominently present:

1. A statement on the front of the brochure written in Spanish that the brochure contains important information and that the information contained within the brochure may be obtained in Spanish by calling a specified toll-free telephone number.

2. A box in bold font on the front or back page of the brochure which contains an Electricity Facts label that includes the following disclosures for each product and pricing plan, regardless of actual price structure:

(a) For the total cost of electric services, exclusive of applicable taxes:

(1) If the billing is based on rates that will not vary by season or time of day, the average price reflecting all recurring charges, expressed as cents per kilowatt hour rounded to the nearest one-tenth of a cent for each usage level as follows:

(I) The average price for residential customers must be shown for 500, 1,000 and 1,500 kilowatt hours per month; and

(II) The average price for small commercial customers must be shown for 1,500, 2,500 and 3,500 kilowatt hours per month; and

(2) If the billing is based on rates that vary by season or time of day, the average price, reflecting all recurring charges, expressed as cents per kilowatt hour rounded to the nearest one-tenth of a cent for each usage level as follows:

(I) The average price for residential customers must be shown for 500, 1,000 and 1,500 kilowatt hours per month; and

(II) The average price for small commercial customers must be shown for 1,500, 2,500 and 3,500 kilowatt hours per month,

using a generic load profile for Nevada, as periodically determined by the commission, for residential and small commercial customers.

(b) If the pricing plan envisions prices which will vary according to the season or time of day, the statement:

This is an example based on average usage patterns – your average electricity price will vary according to when you use electricity. See the Terms of Service brochure for actual prices.

The statement must also identify on-peak times and seasons, and the location of the actual prices within the brochure.

(c) If the pricing plan envisions prices which will vary during the term of the contract because of factors other than season and time of day, the statement:

This is an example based on average contract prices – your average electricity price will vary according to (insert description of the basis for and the frequency of price changes during the contract period). See the Terms of Service brochure for actual prices.

The statement must also identify the location of the actual prices within the brochure.

(d) If the price of the contract will not vary, the phrase “fixed price” and the length of time for which the price will be fixed.

(e) If billing is based on the season or time of day, the on-peak seasons or times.

(f) A statement as to whether there is a minimum contract term, a minimum usage requirement, start-up fee or any minimum of fixed charges.

(g) A statement as to whether there are penalties to cancel service before the end of the minimum term of the contract.

3. If the alternative seller requires deposits from its customers, a description of the conditions that will trigger a request for a deposit, the maximum amount of the deposit, a statement that interest will be paid on the deposit including the amount of the interest that will be paid, and the conditions under which the customer may obtain a refund of a deposit.

4. The amount of any late payment fees, fees that may be charged to the customer for returned checks and any other fees and charges.

5. The policies of the alternative seller regarding estimated meter readings, payment arrangements, late payments, payments in dispute and defaults by the customer.

6. A statement of the availability of any state or federal payment assistance programs and information on how to get further information about those programs.

7. The policy of the alternative seller for handling disputes and complaints, which includes:

(a) A toll-free telephone number that a customer can call for customer service and to register complaints; and

(b) The statement:

If you are not satisfied with our response to your inquiry or complaint, you can contact the Public Utilities Commission and file a complaint by calling or writing to the Consumer Complaint Resolution Division of the Commission in Carson City or Las Vegas.

The statement must also include the current telephone numbers and mailing addresses of the commission for its offices in Carson City and in Las Vegas.

8. All other material terms and conditions, including, without limitation, exclusions, reservations, limitations and conditions of the contract for services offered by the alternative seller.

9. In a separate paragraph or box, in bold font type:

(a) A description of the right of a new customer to cancel a contract within 5 business days after receiving the Terms of Service brochure sent to the customer after the alternative seller has obtained the customer's authorization to provide service to the customer, without penalty or further obligation; and

(b) Instructions for canceling a contract, including the mailing address, telephone number and facsimile machine number which the customer must use to cancel the contract.

10. If the contract imposes any costs on the customer other than energy usage charges, including, without limitation, switching fees and fixed monthly fees, or imposes any minimum requirements, including, without limitation, a fixed-length contract or fees for early termination of the contract, a statement on the front of the brochure, in bold font type:

New customers have the right to cancel a contract within 5 business days after receiving this brochure – see (location of procedures for cancellation within the brochure).

11. A statement informing the customer that, if the alternative seller declines to provide service to the customer, the customer has the right to request from the alternative seller a written statement of the reason for the denial of service, which the alternative seller must provide within 3 days after the customer requests the written statement.

704.79829 Electricity Facts label: Pricing information. (NRS 703.025, 704.977, 704.979, 704.985) For pricing information disclosed by an alternative seller in an Electricity Facts label included in a Terms of Service brochure pursuant to NAC 704.79827:

1. The value of any credits or gifts provided to a customer which do not recur monthly may be stated in plain language on a separate line within the Electricity Facts label, but the alternative seller shall not factor the value of such credits and gifts in the average charges of the customer.

2. If an alternative seller combines the charges for electric services with charges for any other product, the alternative seller shall:

(a) If the electric services are sold separately from the other products, disclose the total price for electric services separately from other products; and

(b) If the alternative seller does not permit a customer to purchase the electric services without purchasing the other products, state the total charges for all products as the price of the total electric services.

3. If the Terms of Service brochure created by an alternative seller is for a product which is available exclusively or primarily to residential and small commercial customers, the alternative seller need only disclose price information for the usage levels of the targeted customer class.

704.79831 Electricity Facts label: Form. (NRS 703.025, 704.977, 704.979, 704.985) An Electricity Facts label that must be included in a Terms of Service brochure by an alternative seller pursuant to NAC 704.79827 must be:

1. Presented in a standard format as shown in an example of the label that is available upon request from the commission;
2. No less than 5 inches in width and 2 inches in height; and
3. Approved by the commission before the alternative seller may disseminate the label.

704.79833 Disclosure of effect of services related to conservation of electricity on cost of electricity. (NRS 703.025, 704.977, 704.979, 704.985) If an alternative seller offers services related to the conservation of electricity in conjunction with electricity services, the alternative seller may include in the Terms of Service brochure a separate price disclosure based on the effect of these services on the cost of electricity for climates and typical dwellings in Nevada.

704.79835 Supporting data to be filed with commission before certain claims may be made in Terms of Service brochure. (NRS 703.025, 704.977, 704.979, 704.985) If an alternative seller wishes to use advertisements and marketing materials in a Terms of Service brochure that make any claims regarding fuel mix or environmental characteristics, the

alternative seller must file data supporting those claims with the commission before the service may be offered.

704.79837 Printed advertisements and marketing materials: Information required; form. (NRS 703.025, 704.977, 704.979, 704.985) Printed advertisements in general circulation newspapers and periodicals, direct mail marketing materials and Internet advertisements of an alternative seller that are directed at residential and small commercial customers must conform to the following:

1. Except as otherwise provided in this section, advertisements and marketing materials that make any claims regarding price or cost competitiveness must include an Electricity Facts label in a bold font box, which contains, without limitation, the information set forth in paragraphs (a), (f) and (g) of subsection 2 of NAC 704.79827. The label must conform to the requirements set forth in NAC 704.79829 and must be not less than 3 inches in width and 2 inches in height.

2. Except as otherwise provided in this section, if a printed advertisement that is less than 6 1/2 inches in width is used in general circulation newspapers and periodicals, an alternative seller may include the following statement in lieu of including an Electricity Facts label as required by subsection 1:

For a copy of important standardized information and contract terms regarding this product, call (name and telephone number of the alternative seller or his agent).

An alternative seller or his agent shall provide a Terms of Service brochure relating to the service or product being advertised to each person who contacts the alternative seller or his agent in response to this statement.

3. If an alternative seller targets advertisements and marketing material exclusively or primarily to residential customers or small commercial customers, the alternative seller need only disclose price and policy information for the targeted customer class.

704.79839 Statement to be included in television and radio advertisements. (NRS 703.025, 704.977, 704.979, 704.985)

1. An alternative seller shall include the following statement in any television or radio advertisement that makes a claim about price or cost competitiveness for an electricity product from the alternative seller:

You can obtain an Electricity Facts label that will allow you to compare the price and terms of this product with others. Call (name and telephone number of the alternative seller) for your Electricity Facts label.

2. An alternative seller shall provide an Electricity Facts label which the alternative seller is required to include in a Terms of Service brochure to each person who contacts the alternative seller in response to the statement set forth in subsection 1.

704.79841 Billing of customers: Issuance and contents. (NRS 703.025, 704.977, 704.979, 704.985)

1. Any printed or electronic communication from an alternative seller or his agent to a residential customer or small commercial customer that informs the customer about the current amount due by the customer on his current account or that confirms an automated billing transaction on the current account of the customer:

(a) Must be issued no less frequently than monthly; and

(b) Must list the cost of noncompetitive services according to the actual charges that the alternative seller is paying to the electric distribution utility.

2. An alternative seller shall include on the front page of each printed electric service bill or on the first section of each electronically communicated electric service bill sent to a residential customer or small commercial customer:

(a) The name and address of the alternative seller and the number of the license issued to the alternative seller by the commission.

(b) The service address and account number of the customer.

(c) The name of the product or pricing plan from the alternative seller for which the customer is being charged.

(d) The service period for which the bill is rendered.

(e) The date on which the bill was rendered.

(f) The date by which payment from the customer must be received by the alternative seller to avoid a late charge or other collection action.

(g) The type of meter used by the customer and the identification number of the meter.

(h) A statement as to whether the bill is based on a meter reading by the alternative seller, a meter reading by the customer or an estimated reading of the meter. If the bill is based on an estimated reading of the meter, the bill must conspicuously disclose that fact.

(i) The meter readings for the beginning and end of the billing period.

(j) The total current charges, balances on the immediately preceding bill, payments made since the preceding bill and the current balance due.

(k) A conspicuous notice of any services or products being provided to the customer that have been added since the previous bill.

3. An alternative seller shall include on the front page of a printed bill, the back of the first page of the printed bill or the front of the next separate page of the printed bill, and in all electronic communications:

(a) A statement describing the policies of the alternative seller concerning:

- (1) Past due payments;
- (2) Applicable late fees;
- (3) Methods by which the customer can make payments; and
- (4) Disputed bills.

(b) A statement of the consequences of nonpayment, specifying the time at which events occur, including, without limitation, when deposit requirements for the customer will be triggered and when a notice of cancellation of the contract will be mailed. The alternative seller shall include a disclosure as to whether the customer can negotiate a payment arrangement or may qualify for additional billing options.

(c) A statement of charges for which the bill is rendered, including, an itemization of each element of the pricing structure or product showing the rate, charge and provider for each element and the total of all current charges, which will enable the customer to recreate each itemized charge and the total charges.

(d) The total kilowatt-hours used and, if rates vary according to time of use, a usage profile.

(e) A box or other typographically separated graphic labeled “Billing Facts” which contains:

(1) The average daily usage of the customer for the month being billed and for the same month of the previous year if the customer is at the same location, if applicable;

(2) The average unit price of the current electricity charge for the current billing period reflecting all recurring charges, but not including any nonrecurring credits, which is expressed as cents per kilowatt-hour rounded to the nearest one-tenth of a cent;

(3) A statement concerning the term of the contract and a reference to any applicable early termination charges; and

(4) A statement as to whether the contract price is a fixed price or a variable price. If the price is variable, the basis for the price variations must be stated, such as time of day or seasonal pricing or price that varies with some published index. If the price of electricity is fixed, the end of the term in which the prices will be fixed must be stated.

(f) A toll-free number, in bold font type, that the customer can call during specified hours for inquiries and to make complaints about the bill.

(g) A toll-free telephone number that the customer can call 24 hours a day, 7 days a week, to report power outages and concerns about the safety of the power system.

(h) A statement that refers the customer to the appropriate Terms of Service brochure of the alternative seller for further information.

704.79843 Public service announcements. (NRS 703.025, 704.977, 704.979, 704.985)

An alternative seller shall, as required by the commission, provide brief public service announcements to the residential and small commercial customers of the alternative seller. The alternative seller shall provide the public service announcements to its customers:

1. On the billing statements of the customers;
2. As an insert in the billing statements of the customers; or
3. Via electronic media,

as specified by the commission.

704.79845 Published materials: Structure, composition and inclusion of license number. (NRS 703.025, 704.977, 704.979, 704.985)

1. All printed advertisements, electronic advertising over the Internet, direct marketing materials, billing statements and Terms of Service brochures of an alternative seller must disclose information as follows:

(a) All disclosures must be clear and understandable.

(b) All disclosures must be written in plain, easily understood English or foreign language if the materials are written in a foreign language such as Spanish, by:

(1) Using short words, sentences and paragraphs;

(2) Using everyday words that have commonly understood meanings;

(3) Not using technical terms, Latin or other foreign terms, except in those materials that are written in a foreign language such as Spanish, or words with obsolete meanings;

(4) Using simple and active forms of verbs;

(5) Using personal pronouns to refer to the contracting parties;

(6) Not using double negatives; and

(7) Not using sentences that include more than one condition.

(c) All required disclosures must be in a type size of at least 10 points and in a color that clearly contrasts with the background colors.

2. An alternative seller shall, upon receipt of a license to act as an alternative seller from the commission, include the number of the license in all of its printed advertisements, electronic advertising over the Internet, direct marketing materials, billing statements and Terms of Service brochures.

704.79847 Procedure for handling customer dispute; filing of complaint with commission. (NRS 703.025, 704.977, 704.979, 704.985)

1. If a customer disputes any bill, charge or service from an alternative seller, the alternative seller shall promptly investigate the matter and report its determination to the customer. If the customer so requests, the report must be made to the customer in writing. In its report to the customer, an alternative seller shall inform the customer of his right to file a complaint with the division.

2. If a customer is not satisfied with the determination made by an alternative seller concerning the dispute, the customer may file a complaint with the division.

3. If a customer files a complaint against an alternative seller with the division pursuant to this section, the alternative seller may require the customer to pay any disputed amount to the alternative seller pending resolution of the complaint unless, at the request of the division, the alternative seller agrees to waive the requirement to pay the disputed amount.

704.79849 Failure to disclose required information. (NRS 703.025, 704.977, 704.979, 704.985)

1. Each failure by an alternative seller to disclose information to a customer as required by NAC 704.79781 to 704.79849, inclusive, constitutes a separate failure to disclose the required information.

2. Repeated failure by an alternative seller to disclose information to a customer as required by NAC 704.79781 to 704.79849, inclusive, may result in a revocation of the license of the alternative seller, after notice and opportunity for hearing.

704.79851 Definitions. (NRS 703.025, 704.978) As used in NAC 704.79851 to 704.79921, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.79853 to 704.79871, inclusive, have the meanings ascribed to them in those sections.

704.79853 “Alternative seller” defined. (NRS 703.025, 704.978) “Alternative seller” has the meaning ascribed to it in NRS 704.967.

704.79855 “Distribution customer” defined. (NRS 703.025, 704.978) “Distribution customer” means:

1. A licensed alternative seller;
2. An end-use customer that has 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; or
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.

704.79857 “Distribution facilities” defined. (NRS 703.025, 704.978) “Distribution facilities” means those facilities used to provide distribution service.

704.79859 “Distribution service” defined. (NRS 703.025, 704.978) “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.

704.79861 “End-use customer” defined. (NRS 703.025, 704.978) “End-use customer” means a retail customer of a potentially competitive service.

704.79863 “Electric distribution utility” defined. (NRS 703.025, 704.978) “Electric distribution utility” has the meaning ascribed to it in NRS 704.970.

704.79865 “Potentially competitive service” defined. (NRS 703.025, 704.978)

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

704.79867 “Provider of last resort” defined. (NRS 703.025, 704.978) “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.

704.79869 “Prudent utility practice” defined. (NRS 703.025, 704.978) “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.

704.79871 “Service territory” defined. (NRS 703.025, 704.978) “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.

704.79873 Documents to be filed with commission for approval. (NRS 703.025, 704.978) An electric distribution utility shall file with the commission for approval:

1. A tariff for distribution service which is consistent with NAC 704.79851 to 704.79921, inclusive;

2. A service agreement which is consistent with NAC 704.79877; and
3. A service request form which is consistent with NAC 704.79879.

704.79875 Tariff for distribution services. (NRS 703.025, 704.978) 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.

704.79877 Service agreement. (NRS 703.025, 704.978) 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.
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.

704.79879 Service request form. (NRS 703.025, 704.978) 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 delivery 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.

704.79881 Availability of service; nondiscrimination; standard distribution service. (NRS 703.025, 704.978) 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 NAC 704.79883, provide firm distribution service to each end-use customer in accordance with prudent utility practices.

704.79883 Negotiated distribution option: Request for different type of service; petition to commission for arbitration; response to notice of petition. (NRS 703.025, 704.978)

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 NAC 704.79881, 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 business 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.

704.79885 Prerequisites to request for service. (NRS 703.025, 704.978)

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 NAC 704.79887 and 704.79889.

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.

704.79887 Indicia of creditworthiness. (NRS 703.025, 704.978) 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 Ratings 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.

704.79889 Compliance of distribution customer with requirements for data exchange.

(NRS 703.025, 704.978) A distribution customer must comply with all applicable requirements relating to the exchange of electronic data which the commission has set forth by rule or tariff, including completing all reasonable nondiscriminatory requirements for electronic interfaces between the distribution customer and the electric distribution utility to assure reliable distribution service.

704.79891 Execution of standard agreement; acceptance of service request forms.

(NRS 703.025, 704.978) Once an electric distribution utility has determined, in accordance with NAC 704.79885, 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.

704.79893 Submission of service request form; acknowledgment of receipt; notice of approval or rejection. (NRS 703.025, 704.978)

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.

704.79895 Procedure for switch in service. (NRS 703.025, 703.978)

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 form 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.

704.79897 Reasons for rejection of service request form; written explanation to commission; resubmission after resolution of deficiencies. (NRS 703.025, 704.978)

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 NAC 704.79885;

(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 approve 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.

704.79899 Resolution of dispute pertaining to denial of service request form. (NRS 703.025, 704.978) 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 NAC 704.79921.

704.79901 Referral to end-use customer information center. (NRS 703.025, 704.978) 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.

704.79903 Acceptance and processing of requests for new physical connections. (NRS 703.025, 704.978)

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.

704.79905 Information to be supplied to distribution customer. (NRS 703.025, 704.978)

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 NAC 704.79885 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.

704.79907 Notification of change in credit rating or financial condition. (NRS 703.025, 704.978) 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.

704.79909 Return of security deposit upon termination of service; interest payment. (NRS 703.025, 704.978)

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.

704.79911 Processing changes in service resulting from termination of relationship between end-use customer and distribution customer. (NRS 703.025, 704.978) 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.

704.79913 Procedure for termination of service to alternative seller. (NRS 703.025, 704.978) 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.

704.79915 Planned outage; load reduction; restoration of service in event of unplanned outage. (NRS 703.025, 704.978)

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,

the electric distribution utility shall allocate the reductions in load proportionally among all its customers whose load contributes to the need for the reduction, if such a proportional curtailment can be done in accordance with prudent utility practices.

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

704.79917 Reports on outages and requests for repairs. (NRS 703.025, 704.978) 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.

704.79919 Response to inquiries regarding outages and repairs. (NRS 703.025, 704.978)

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.

704.79921 Resolution of disputes. (NRS 703.025, 704.978)

1. Except as otherwise provided in this subsection, an electric distribution utility shall resolve any disputes arising under any provision of NAC 704.79851 to 704.79921, inclusive, 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 representative; or

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

704.79925 Definitions. (NRS 703.025, 704.978, 704.981) As used in NAC 704.79925 to 704.79945, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.79927 to 704.79937, inclusive, have the meanings ascribed to them in those sections.

704.79927 “Customer” defined. (NRS 703.025, 704.978, 704.981) “Customer” has the meaning ascribed to it in NRS 704.968.

704.79929 “Electric distribution utility” defined. (NRS 703.025, 704.978, 704.981) “Electric distribution utility” has the meaning ascribed to it in NRS 704.970.

704.79931 “Electricity demand” defined. (NRS 703.025, 704.978, 704.981) “Electricity demand” means the average amount of power, expressed in kilowatts, over a specified interval of time.

704.79933 “Interval meter” defined. (NRS 703.025, 704.978, 704.981) “Interval meter” means a device for registering and recording electricity demand in discrete time intervals.

704.79935 “Load profile” defined. (NRS 703.025, 704.978, 704.981) “Load profile” means the quantified relationship between electricity load, measured in kilowatts, and time, based on each hour of the day, for a particular customer or group of customers during a specific period.

704.79937 “Load profiling service” defined. (NRS 703.025, 704.978, 704.981) “Load profiling service” means the production of load profiles using statistical or engineering methods.

704.79939 Preparations by electric distribution utility relating to plan for load profiling. (NRS 703.025, 704.978, 704.981)

1. An electric distribution utility shall, in accordance with its plan for load profiling that has been approved by the commission, conduct sampling, collect data and prepare load profiles for any customers who do not use an interval meter.

2. No later than 2 days before a settlement day, the electric distribution utility shall make available on its public website on the Internet hourly load profiles, including a complete description of all supporting models, documentation and data obtained from the sampling, collection of data and preparation of load profiles performed pursuant to subsection 1. The hourly profiles posted on the Internet must be in a format that is readily accessible and capable of being processed by interested persons, the staff of the commission and the bureau of consumer protection in the office of the attorney general. The electric distribution utility shall also make available on its public website on the Internet 2 years of historic data concerning hourly load profiles, including associated weather information and information which shows the proportion of meters that are interval meters within the service territory of the electric distribution utility. The electric distribution utility shall update the hourly load profile data and associated weather information monthly.

3. No later than the date on which customers may begin purchasing services from alternative sellers, an electric distribution utility shall have in place all necessary systems required by this section to provide the load profiling service beginning on that date.

4. As used in this section, “settlement day” means the day on which an independent scheduling administrator receives the preliminary monthly settlement data.

704.79941 Application for approval of plan. (NRS 703.025, 704.978, 704.981) No later than January 6, 2000, an electric distribution utility shall file with the commission an application for the approval of the complete plan for load profiling of the electric distribution utility and the appropriate distribution tariff provisions to carry out the requirements of subsection 1 of NAC 704.79939. The plan for load profiling must include:

1. All methods and protocols to be utilized for sampling and the collection of data, including procedures for determining sample sizes and the use of interval meters for producing load profiles. If an entity other than the electric distribution utility will be sampling and collecting the data, the plan must identify that entity. If stratified random sampling is used, the plan must include a report on the methodology and procedures used for determining the strata of the market and the sample size for each stratum.

2. All statistical methods and protocols to be utilized for load profiling, including:

(a) The criteria and procedures for examining, editing and verifying the sample meter data and a description of how these criteria and procedures comply with the standards and protocols for metering and data approved by the commission;

(b) The statistical methodology for producing the load profiles to be made available on the Internet pursuant to NAC 704.79939;

(c) The methodology for collecting the hourly load information from the sample of interval meters required by NAC 704.79939;

(d) Information supporting whether load profiles based on engineering estimates which are deemed load profiles are appropriate for particular market segments; and

(e) If the market segments proposed by the electric distribution utility differ from the market segmentation in its existing rate schedules, detailed documentation on the methodology and

results of studies conducted to support the distinct load profiles for each proposed market segment. The documentation must include the impact of the proposed market segmentation on the costs of load profiling.

3. An explanation of the results, equations and formulas used in each of the statistical methodologies and protocols described in subsection 2.

4. An incremental cost estimate for providing the new load profiling service.

5. A detailed description of the final recommendations of the electric distribution utility for its load profile study, including, without limitation, the frequency, customer classes, applicable time frames, market segmentation and file format of the information to be made available on the Internet pursuant to NAC 704.79939.

6. A proposal for recovery of the incremental costs associated with providing the load profiling service and the justification for the proposal.

704.79943 Application for change to plan. (NRS 703.025, 704.978, 704.981)

1. On or after the date on which customers may begin purchasing services from alternative sellers, an electric distribution utility, the staff of the commission, the bureau of consumer protection in the office of the attorney general or any interested person may file an application with the commission to change the load profiling plan of the electric distribution utility. Such an application must include:

(a) Except as otherwise provided in subsection 2, all of the information described in NAC 704.79941; and

(b) A detailed description and other relevant analyses of any deficiencies in the previously approved plan for load profiling.

2. If an application to change the load profiling plan of an electric distribution utility is filed by an entity other than the electric distribution utility, the electric distribution utility shall, upon the request of the applicant, provide to the applicant an estimate of the incremental cost of providing the new load profiling service. An application filed by any entity other than an electric distribution utility to change a load profiling plan need not include an estimate of the incremental cost of providing the new load profiling service in order to be considered a complete application at the time of filing. An application filed without such an estimate must include a statement concerning when the applicant anticipates providing the estimate.

704.79945 Report on status of service. (NRS 703.025, 704.978, 704.981)

1. No later than July 1, 2001, and each year thereafter until the load profiling service of an electric distribution utility has fully ceased, the staff of the commission shall file a report for consideration by the commission on the status of the load profiling service of the electric distribution utility. The report must include, without limitation:

- (a) The status of the market penetration and use of interval meters in the State of Nevada;
- (b) The status of available metering technology;
- (c) Recommendations of dates for the phase-out of load profiling based on customer groups, load levels and consumption behavior;
- (d) Recommendations for the discontinuance of load profiling service to customers of distribution service, unless interval metering is utilized; and
- (e) Relevant documentation, data and information supporting the status reports and recommendations required by paragraphs (a) to (d), inclusive.

2. As used in this section, “distribution service” means the service provided over the physical distribution plant of delivering electricity from the transmission system to end-use customers.

704.79951 Definitions. (NRS 703.025, 704.980) As used in NAC 704.79951 to 704.79967, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.79953, 704.79955 and 704.79957 have the meanings ascribed to them in those sections.

704.79953 “Affiliate” defined. (NRS 703.025, 704.980) “Affiliate” means an affiliate of a provider of a noncompetitive service.

704.79955 “Noncompetitive service” defined. (NRS 703.025, 704.980) “Noncompetitive service” has the meaning ascribed to it in NRS 704.973.

704.79957 “Potentially competitive service” defined. (NRS 703.025, 704.980) “Potentially competitive service” has the meaning ascribed to it in NRS 704.974.

704.79959 Applicability. (NRS 703.025, 704.980) The provisions of NAC 704.79951 to 704.79967, inclusive, apply to providers of a noncompetitive service, and their affiliates, that seek to provide a potentially competitive service.

704.79961 Requirement to file application. (NRS 703.025, 704.980)

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 NAC 704.79963 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 NAC 704.79963 with the commission for authorization for the affiliate to provide the potentially competitive service.

2. If any document required to be included by NAC 704.79951 to 704.79967, inclusive, 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 NAC 704.79951 to 704.79967, inclusive, 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.

704.79963 Application for authorization. (NRS 703.025, 704.980)

1. An application filed with the commission pursuant to NAC 704.79961 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.

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 NAC 704.79961 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.

704.79965 Final order from commission. (NRS 703.025, 704.980) 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 NAC 704.79951 to 704.79967, inclusive, is:

1. Complete and includes the information required by NAC 704.79963; 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, 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.

704.79967 Application to modify order. (NRS 703.025, 704.980)

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,

the provider of the noncompetitive service and its affiliate must jointly submit an application to the commission, pursuant to NAC 704.79951 to 704.79967, inclusive, 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 NAC 704.79951 to 704.79967, inclusive, 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.

704.9725 Deviations from regulations. The commission may permit a deviation from the provisions of NAC 704.953 to 704.973, inclusive, if the deviation will not adversely affect the public interest or the interests of the parties and good cause is shown to support the deviation.

**NOTICE OF ADOPTION OF REGULATION
LCB File No. R047-02**

PUC DOCKET NO. 01-10039

The Public Utilities Commission adopted regulations assigned LCB File No. R047-02, which pertain to Chapters 703 and 704 of the Nevada Administrative Code on September 26, 2002.

Notice date: 7/3/2002
Hearing date: 8/23/2002

Date of adoption by agency: 9/26/2002
Filing date: 10/24/2002

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

The revisions to NAC 703 and 704 regarding practice and procedure before the Public Utilities Commission (“Commission”) in Docket No. 01-10039 were noticed on four occasions: two Notices of Workshop on June 25, and November 7, 2001, one combined Notice of Intent to Amend/Adopt/Repeal Regulations; Notice of Workshop and Notice of Hearing on April 1, 2002, and one combined Notice of Intent to Amend/Adopt/Repeal Regulations and Notice of Hearing on July 3, 2002, published in the Elko Daily Free Press, Ely Daily Times, Humboldt Sun, Las Vegas Review Journal, Mineral County Independent, Nevada Appeal, Reno Gazette Journal, and Tonopah Times-Bonanza. Additionally, the notices were mailed to county clerks, county libraries and all persons who requested inclusion on the Commission’s service list. The Commission also sought public comment in two Requests for Comments issued on June 26, and November 7, 2001, which were sent to all persons who requested inclusion on the Commission’s service list.

The transcripts of all the public sessions are available for review at the offices of the Commission. The transcripts of both the workshops and hearing are a combined 477 pages in length.

In addition to the public response from affected businesses discussed in #3 below, the following represents a summary of the public responses that were made to the Commission at the duly-noticed workshop held on August 30, 2001: Generally, commenters were supportive of the following provisions: expanding the definition of commenter and protestant; many other jurisdictions have experience using hearing officers that we might be able to benefit from in instituting hearing officers here; use of hearing officers would be beneficial, but parties should have an opportunity to comment on the proposed order prior to Commission action on the proposed order; the regulations on interventions are sufficient, but probably more strict application by the Commission would resolve the concern of speculative interventions; no major concerns were expressed with the discovery regulations; the addition of a category of commenter would increase public participation; more use of electronic mediums would be beneficial;

generally more active management by the parties and the Commission earlier in a case could resolve some concerns; and more consumer sessions could increase public participation.

In addition to the public response from affected businesses discussed in #3 below, the following represents a summary of the public responses that were made to the Commission at the duly-noticed workshop held on August 31, 2001: Generally, commenters were supportive of the following provisions: expanding the definition of commenter and protestant; many other jurisdictions have experience using hearing officers that we might be able to benefit from in instituting hearing officers here; use of hearing officers would be beneficial, but parties should have an opportunity to comment on the proposed order prior to Commission action on the proposed order; limiting of interventions should be done with care; ex parte communication may be helpful on a limited basis, but it may not be possible due to provisions in the NRS; some type of informal process may assist small companies, but it may create a due process problem; improve the use of technology; the NRCP are probably sufficient to cover any discovery concerns without modifying our regulations; some discovery provisions that have been informally used probably do need to be codified; and for an association to have a sufficient interest for intervention one of its members must have a sufficient interest for intervention. Many other topics were suggested for further discussion at a later point.

In addition to the public response from affected businesses discussed in #3 below, the following represents a summary of the public responses that were made to the Commission at the duly-noticed hearing held on December 14, 2001: Generally, commenters were supportive of the following provisions: the use of hearing officers would increase efficiency; don't extend the time frame for ruling on petitions; the current intervention rule is adequate; could be helpful for the Commission to issue a policy statement outlining its interpretation of direct and substantial interest; a stipulation shouldn't hinge on whether all the parties to a proceeding signed it; the current discovery provisions are working fairly well and require few changes, so long as flexibility and informality is maintained; a simple prohibition on ex parte communication is fairly workable; use of a consent agenda could be helpful; comments offered by commenters and protestants should not be considered evidence in a proceeding; general support for use of electronic mediums was expressed; and some time conflicts were noted in computing times for responsive pleadings. Commenters were divided on whether the Commission could adopt alternative dispute resolution processes and how beneficial those processes would be. Comments were also received on both sides of the issue as to the benefit and timing of issue sheets.

In addition to the public response from affected businesses discussed in #3 below, the following represents a summary of the public responses that were made to the Commission at the duly-noticed hearing held on December 17, 2001: Generally, commenters were supportive of the following provisions: a broad view of interventions is beneficial and coalitions can be useful in streamlining interests; for an association to have a sufficient interest for intervention one of its members must have a sufficient interest for intervention; more restrictive intervention policies could resolve the problems with partial party settlements; the short time frames for ruling on petitions is beneficial; the difference between a commenter and a protestant needs to be clarified; use of hearing officers would be beneficial, but parties should have an opportunity to comment on the proposed order prior to Commission action on the proposed order; more use of electronic service would be beneficial; insert a general waiver provisions into the regulations; further

codification and expanded time frames for discovery are supported; and elimination of some of the newspaper publication requirements would lessen the economic burden without significantly impacting the public notice. A wide-ranging discussion was held on ex parte communication, with some commenters in support of it and some against in different circumstances. Also, the commenters ranged on their opinions of the usefulness of position papers and issue lists, and the usefulness of each at different points in a proceeding.

In addition to the public response from affected businesses discussed in #3 below, the following represents a summary of the public responses that were made to the Commission at the duly-noticed hearing held on May 20, 2002: Generally, commenters were supportive of the following provisions: creation of a commenter status; inclusion of the protestant status; inclusion of a general waiver provision; service and notice through electronic means, to include use of email, facsimile, and website postings; no special cut off for filing on Fridays; later rather than earlier Commission interaction in discovery processes and disputes; maintaining flexibility and informality in discovery; not limiting cross examination; filing performance measures every three years instead of every year; allowing creativity in settlements, to include partial party and partial issue settlements; continuing the use of a Commission service list and mailings to persons on the list; the use of hearing officers; publication of hearing officer's proposed decisions for comment by the parties prior to Commission action on the proposed order; reliance on the NRS and Nevada law for a definition of relevance; and specifying a time frame in the regulations on depreciation cases since they can be filed outside rate cases. Commenters disagreed on whether to allow ex parte communication and what the standards should be applied and whether or not to broaden the regulations regarding interventions.

In addition to the public response from affected businesses discussed in #3 below, the following represents a summary of the public responses that were made to the Commission at the duly-noticed hearing held on August 21, 2002: Multiple recommendations were made regarding discovery, and most commenters supported the idea of carving out discovery issues from the current proceeding to allow the interested persons more time to work on them. Some commenters wanted stricter discovery rules, and some felt they were fine the way they were. Some comments stated that the ability to have partial party and/or partial issue settlements was beneficial to resolving cases. But, the commenters felt that a requirement to renote these partial party and/or partial issue settlements would create delay. Comments were supportive of more Commission flexibility and more time in large cases for the filing of motions to strike. A commenter indicated that direct and substantial interest, as it relates to intervention, requires no additional clarification in the regulations. Generally, some commenters stated that ex parte communication should be prohibited, but if allowed clear timing needed to be established.

In addition to the public response from affected businesses discussed in #3 below, the following represents a summary of the public responses that were made to the Commission at the duly-noticed hearing held on August 23, 2002: Several suggestions were made regarding discovery. Comments were made with regard to timing of the motion for a protective order. Commenters also suggested that parties or the presiding officer should have the flexibility to set timing for different discover matters. Additionally, most commenters felt that objections should be resolved initially informally rather than being filed with the Commission immediately. It was suggested to remove the section of the regulations that states that Commission proceedings are

investigatory to clear up confusion. Finally, commenters stated that the motion to strike provisions could lead to more unnecessary motions as parties try to protect their rights.

A copy of the summary may be obtained by calling the Commission at (775) 687-6001 or (702) 486-2600, or by writing to the Commission at 1150 East William Street, Carson City, Nevada 89701 or 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

2. The number of persons who:

(a) Attended the workshop:

August 30, 2001: 8
August 31, 2002: 15
December 14, 2001: 10
December 17, 2001: 13
May 20, 2002: 14

(b) Testified at the workshop:

August 30, 2001: 4
August 31, 2002: 12
December 14, 2001: 5
December 17, 2001: 8
May 20, 2002: 11

(c) Attended the hearing:

August 21, 2002: 15
August 23, 2002: 9

(d) Attended the hearing:

August 21, 2002: 8
August 23, 2002: 5

(e) Submitted to the agency written comments:

Written Comments were submitted to the Commission by the Regulatory Operations Staff of the Commission (“Staff”), the Attorney General’s Bureau of Consumer Protection (“BCP”), Sierra Pacific Power Company and Nevada Power Company (“SPR”), Central Telephone Company -- Nevada, d/b/a Sprint of Nevada and Sprint Communications Company L.P. (“Sprint”), Nevada Bell Telephone Company (“NV Bell”), Verizon California, Inc. d/b/a Verizon Nevada (“Verizon”), Lionel, Sawyer & Collins (“LSC”), Pac-West Telecomm, Inc. (“Pac-West”), WorldCom, Inc. (“WorldCom”), Advanced TelCom Group, Inc. (“ATG”), AT&T Communications of Nevada, Inc. (“AT&T”), Nevada Telecommunications Association (“NTA”), Southwest Gas Corporation (“SW Gas”), Mpower Communications Corporation (“Mpower”), Meridian Company (“Meridian”), the Washoe County Senior Law Project (“WCSLP”), and the Association of Communications Enterprises (“ASCENT”).

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by notices placed in the newspapers mentioned in the response to question #1 above, by direct mailings to interested persons on the Commission's mailing list and by posting of notices at county libraries, courthouses and the Commission's website.

Appearances were made at the foregoing workshops and hearing by interested persons, including Regulatory Operations Staff of the Commission, the Attorney General's Bureau of Consumer Protection, Sierra Pacific Power Company and Nevada Power Company, Central Telephone Company -- Nevada, d/b/a Sprint of Nevada and Sprint Communications Company L.P., Nevada Bell Telephone Company, Verizon California, Inc. d/b/a Verizon Nevada, Lionel, Sawyer & Collins, Pac-West Telecomm, Inc., WorldCom, Inc., XO Communications, Advanced TelCom Group, Inc., AT&T Communications of Nevada, Inc., Nevada Telecommunications Association, Joseph Johnson, Bernard T. Santos, Southwest Gas Corporation, Cox Communications, and Mpower Communications Corporation

Written responses were received as set forth in the response to question 2(e) above. All written comments are available for review at the offices of the Commission

The first series of written comments were filed with the Commission from August 1 through August 3, 2001. Staff, BCP, LSC, Verizon, ATG and WorldCom, NV Bell, Sprint and WCSLP filed comments. The comments were generally supportive of the current policy on interventions, and agreed that Clark County's ruling in Case Nos. A386841 and A387827 did not require the Commission to alter the current interventions regulations. The comments were also generally supportive of the prospective use of hearing officers. A few minor suggestions were made concerning the format of the agenda meetings, including the use of a consent agenda, and several commenters suggested the use of a more informal hearing process, including several alternative dispute resolution processes and resolution through written submissions. Several commenters also recommended expanded use of electronic technology, including service by email and facsimile, and expanded use of the Commission's website. Several suggestions were made in regards to expanding timelines for certain procedural matters before the Commission, including discovery.

The next comments were filed on November 28, 2001. Staff, BCP, LSC, Verizon, ATG, Pac-West, WorldCom, NV Bell, SPR, Sprint, Meridian and ASCENT filed comments. On December 12, 2001, AT&T filed comments. Commenters recommended looking to the NRS and other Nevada cases for definitions of "direct and substantial" and "relevance," rather than creating new or unique wording. Most of the commenters recommended codifying the "3-day/10-day rule, and other provisions, for discovery. Several parties objected to the formation of any informal hearing process as violative of the Open Meeting Law. The comments generally cautioned against further restrictions on the ability of parties to submit stipulations; although it was suggested that counsel signing a stipulation could certify the stipulation's compliance with certain issues of concern. Most commenters felt that the timeframe for review of petitions was adequate, or should

only be modified slightly. Most comments objected to dismissal of a party from a matter for failure to appear at a proceeding as too harsh. Comments on hearing officers all recommended allowing parties an opportunity to comment in writing on the hearing officer's proposed order before the Commission considers it. Comments were also received on ex parte conduct; these comments proposed both more and less restriction, but generally suggested following the NRS section on point. Comments also proposed definitions for both a commenter and protestant status, and a more inclusive standard for involvement of associations and coalitions. Finally, a recommendation was made that the Commission adopt a general waiver provision for NAC 703 and 704 similar to the provision currently in NAC 704A.

The third series of comments was filed from May 14 to May 20, 2002. The BCP, Mpower, NV Bell, LSC, Sprint, and ASCENT filed comments. Commenters reiterated the desire for expanded usage of electronic mediums. Several commenters proposed additional discovery items, including not filing discovery objections with the Commission until the parties have been unsuccessful in resolving their problems informally. The comments uniformly requested decreased noticing requirements, but some indicated that this might not be feasible. In particular, it was highlighted that the costly notices in newspapers are not especially useful. Again, comments on hearing officers, which uniformly supported the use of hearing officers, all recommended allowing parties an opportunity to comment in writing on the hearing officer's proposed order before the Commission considers it. Several comments recommended the section regarding depreciation rates be rewritten to provide for a depreciation application that is filed outside of a general rate application. Most comments objected to a specific time for filing on Fridays at the Commission.

The fourth series of comments was filed from May 29 to June 7, 2002. Comments were filed by BCP, NTA, Verizon, Sprint, Pac-West and WorldCom. Some comments indicated that the Commission could not limit cross-examination to the scope of direct examination due to provisions in the NRS and Nevada case law. Commenters raised a concern that any comments filed by the new category of "commenter" should not be received at the close of the hearing because then the parties would not have an opportunity to respond to the comments. Concerns were raised in the comments on the timing and treatment of rebuttal evidence and motions to strike. The prior comments regarding stipulation were reiterated, indicating a concern over increased party time and expense if partial party and partial issue stipulations are disallowed. Additionally, most commenters stated that Staff and BCP should not be required to be signatories to all stipulations, nor should stipulations be noticed and treated as new petitions. Most comments again objected to a specific time for filing on Fridays at the Commission.

The final series of comments was filed from August 15 to September 18, 2002. The BCP, Sprint and SW Gas filed comments. Commenters again asserted the pros and cons of ex parte communications, with most comments not in support of ex parte communication. Concerns were raised in the comments on the shortness of time for motions to strike, objections to discovery, and motions to compel. Various changes were also recommended in the comments to sections pertaining to the discovery provisions. A commenter discouraged the use electronic service, and another suggested further restrictions before allowing it. Most comments again objected to dismissal of a party from a matter for failure to appear at a proceeding as too harsh and alternatively suggested a waiver of a right to object.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The Commission received LCB revisions to its regulation on September 20, 2002. Multiple changes were made to the proposed regulation before it was adopted by the Commission at a duly noticed general session on September 26, 2002.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects; and**
- (b) Both intermediate and long-term effects.**

The Commission has found that the regulation does not impose a direct and significant burden upon businesses and the public in Nevada based on the following facts: (1) none of the proposed amendments change any of the terms under which applicants, intervenors, or other interested parties may bring business before the Commission; and (2) the effect of the requirement does not impose a significant economic burden upon small business, nor does it restrict the formation, operation, or expense of a small business.

6. The estimated cost to the agency for enforcement of the adopted regulation.

At this time, the Commission cannot quantify what, if any, estimated cost it will incur to enforce the adopted regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The Commission is not aware of any overlap or duplication by this regulation of any regulation of any other local, state or federal government agencies.

8. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The Commission is not aware of any provision in this regulation that is more stringent than a federal regulation which regulates the same activity.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The Commission is not aware of any provision in this regulation that provides for a new fee, or increases an existing fee.

