

LCB File No. T001-99

**TEMPORARY REGULATION OF THE PUBLIC UTILITIES
COMMISSION OF NEVADA**

(Adopted as temporary regulation October 29, 1998.)

PUCN Docket No. 97-8001 (PCS/NCS affiliations)

LCB File No. T001-99

Authority: NRS 703.025, 704.980

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

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

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

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

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

Sec. 6. The provisions of Sections 2 to 10, inclusive, apply to a provider of a noncompetitive service and to any affiliate of such a provider which seeks to provide a potentially competitive service.

Sec. 7. If an affiliate of a provider of a noncompetitive service seeks to provide a potentially competitive service, the affiliate or the provider of a noncompetitive service, or both, as dictated by Section 8 of this regulation, shall file an application which complies with Section 9 of this regulation to authorize the affiliate to provide a potentially competitive

service. To the extent that any document required by this regulation is already in the official files of the commission, an applicant will be considered to have satisfied the provision of this regulation which requires the document to be submitted if the applicant specifically identifies the document and requests that it be incorporated by reference into its application.

Sec. 8. A provider of a noncompetitive services shall include in its application a description of each potentially competitive service which it seeks to have an affiliate provide. If an existing affiliate of a provider of a noncompetitive service seeks to provide a potentially competitive service, the affiliate must file a joint application with the provider of a noncompetitive service.

Sec. 9. An application filed pursuant to Section 7 of this regulation shall contain explanation and testimony relating to the four subject areas set forth below. Note that this list prescribes information to be included with applications. It is not intended to preclude the commission from requiring supplemental information after receiving applications.

1. Information necessary to assist the commission in determining whether the Applicant has satisfied NRS 704.978(2), including but not limited to the following:

(a) Copies of any (I) tariffs and other documents filed with the Federal Energy Regulatory Commission relating to transmission service, and (ii) tariffs, service agreements and other documents filed with the commission setting forth the commitments made by the provider of a noncompetitive service to provide distribution service;

(b) Description of any formal or informal disputes related to such transmission and distribution tariffs and commitments, including parties to such disputes, copies of all correspondence and pleadings related to such disputes, any resolutions of the disputes and citations to any orders relating to such disputes;

(c) Detailed explanation of what uses, if any, the affiliated provider of potentially competitive services will have for a noncompetitive service or services for the five-year period beginning with the granting of the application;

(d) Evaluation of whether the transmission facilities and distribution facilities owned by the provider of a noncompetitive service will be sufficient to satisfy all demands for the transmission and distribution of power for the benefit of customers in Nevada;

(e) Where such evaluation indicates that the facilities will be inadequate, a description of all plans to (I) expand the facilities, and (ii) prioritize the use and operation of such facilities to assure nondiscriminatory access to transmission and distribution services.

(f) With respect to each noncompetitive service, other than transmission and distribution service, provided by the affiliated provider of a noncompetitive service:

- I. description of each service; and
- ii. description of all disputes related to the provision of each service, including any resolution and relevant documentation.

2. Information necessary to assist the commission in determining whether the Applicant has satisfied NRS 704.980(1)(b), including but not limited to the following:

- (a) description of all financing which the affiliate will have, including the terms and sources of such financing;
- (b) description of all services, assets and other resources which the affiliate will, directly or indirectly, receive from, provide to, or share with any other affiliate, including the provider of a noncompetitive service;

- (c) a list of all officers and members of boards of directors of each affiliate, including any affiliated provider of a noncompetitive service and the affiliates proposed to provide a potentially competitive service or services; and
- (d) complete organizational charts for all affiliates which provide potentially competitive services and noncompetitive services.

3. Information necessary to assist the commission in determining whether the Applicant has satisfied NRS 704.980(1)(c), including but not limited to the following:

- (a) Describe and, to the extent possible, quantify each advantage that the affiliate providing a potentially competitive service or services will have as a result of its affiliation with the provider of a noncompetitive service.
- (b) With respect to all assets, services and other resources which the affiliate will be obtaining from the provider of a noncompetitive service or other affiliates: please provide an evaluation of whether, and to what extent, competing sellers of the potentially competitive service or services will be able to obtain such assets, services and resources on similar terms.

4. Information necessary to assist the commission in determining whether the Applicant has satisfied NRS 704.980(1)(d), including but not limited to the following:

- (a) Applicant's best estimate as to the (I) dollar value and (ii) number of transactions which will be undertaken between the affiliates providing PCS services and other affiliates; and
- (b) A description of the management structure and identification of personnel; and personnel responsible for compliance with the commission's regulations on affiliate relations and with any order approving the applicant's request.

Sec. 10. With respect to the initial request by a provider of a noncompetitive service or its affiliate for a determination pursuant to this regulation, if a complete application which

comports with the requirements of Section 9 of this regulation is 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(1), the commission will issue a final order with respect to such an application not later than 6 months before such date. The commission's orders with respect to such initial requests will specify which potentially competitive services, if any, the affiliate may provide. Subsequent to the issuance of such an order, when a provider of a noncompetitive service wishes to request permission to provide through an affiliate a potentially competitive service which the initial order did not address, or which the initial order addressed but declined to permit the affiliate to provide, such request shall be made by application which complies with this regulation. Each such subsequent application shall include, in addition to all information otherwise required by this regulation, a full explanation, supported by testimony, as to why the commission should modify its initial order. The filing of such subsequent application shall not affect the right of any alternative seller not affiliated with the applicant to provide any potentially competitive service.

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

In Re Investigation of issues to be)
considered as a result of restructuring) Docket No. 97-8001
of electric industry (pursuant to NRS 704.965)
to 704.990, inclusive).)

INFORMATION STATEMENT (Filed in accordance with NRS 233B.066.)

In August of 1997, the Commission entered an “Order Instituting Investigation” in Docket No. 97-8001, an investigation of issues related to the restructuring of the electric industry. These issues include whether and to what extent a provider of a noncompetitive service can provide a potentially competitive service via an affiliate (see NRS 704.978 and 704.980).

In October, the Commission conducted a workshop and hearing in order to discuss this issue and in order to receive comments on a proposed regulation. This proposed regulation listed the requirements of applications via which providers of a noncompetitive service could obtain authority to provide a potentially competitive service. In accordance with the provisions of NRS 233B.063(3), the Commission voted at an agenda meeting on October 29, 1998 to adopt a temporary regulation.

Solicitation of Comments from the Public and from Affected Businesses

The Commission’s notices which were issued in this docket were published in several newspapers of general circulation, mailed to numerous entities which appear regularly before the Commission, mailed to city and county clerks, mailed to the Attorney General’s Office, Bureau of Consumer Protection/Utility Consumers Advocate (“UCA”), and mailed to all persons who requested inclusion on the Commission’s service list. Copies of this informational statement may be obtained by contacting either of the Commission’s offices at:

Office of the Public Utilities Commission
1150 East William Street
Carson City, Nevada 89701-3109

(702) 687-6007

or

Office of the Public Utilities Commission
Sawyer Office Building
555 East Washington Avenue, Suite 4500
Las Vegas, Nevada 8910

(702) 486-2600

Summary of Comments

The Commission's workshop and hearing on this regulation were held on October 19, 1998. The comments filed and those made on the record at the workshop and hearing are summarized as follows: Sierra Pacific Power Company and Nevada Power Company objected to the substance of the proposed regulation on the basis that it was not necessary in light of other regulations being considered for adoption by the Commission in the context of electric restructuring.

The workshop and hearing were attended by approximately 18 persons; approximately eight persons placed comments on the record. Three different entities filed written comments. After consideration of the written comments and of those made on the record during the workshop and hearing held on October 19, 1998, the Commission made only non-substantive revisions to the proposed regulation and voted on October 29, 1998 to adopt it as a temporary regulation.

Economic Effect of the Regulation

On Affected Businesses

This regulation is specifically required by NRS 704.980(2); the Commission does not anticipate any adverse economic effects which cannot be avoided while at the same time conforming with the law (NRS 704.965 to 704.990, inclusive) to result from this regulation.

On the Public

The Commission expects the public to benefit from retail competition in electric services. The Commission does not anticipate any adverse effects on the public to result from these regulations.

Estimated Cost to the Agency for Enforcement

The Commission does not anticipate any increased costs associated with enforcement of these regulations.

Duplication with other Regulations

This regulation does not overlap or duplicate those of other state or government agencies.