

**SECOND REVISED PROPOSED REGULATION OF
THE PUBLIC UTILITIES COMMISSION OF NEVADA**

LCB File No. R011-15

September 16, 2015

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

AUTHORITY: §1, NRS 702.170, 703.025, 704.210 and 704B.200; §§2, 3, 5, 10-14, 17 and 21-27, NRS 703.025 and 704.210; §4, NRS 703.025, 703.320, 703.380 and 704.210; §§6-9, NRS 233B.050, 703.025 and 704.210; §§15, 19 and 20, NRS 703.025, 703.191 and 704.210; §16, NRS 703.025, 704.210 and 704.215; §18, NRS 703.025, 704.210 and 704.660.

A REGULATION relating to utilities; revising provisions governing the methods of giving public notice of certain filings and proceedings of the Public Utilities Commission of Nevada; requiring the Secretary of the Commission to make available for viewing on the Internet website of the Commission the list of persons that will be provided with copies of service of process and other documents in certain proceedings; revising the requirements for a person to participate in a contested case as a commenter; revising the requirements for an answer to an order to show cause or a complaint; revising provisions governing motions to dismiss certain prohibited applications for rate increases; requiring certain providers of last resort of basic service to submit certain annual reports; adopting by reference certain codes, standards, regulations and manuals; eliminating certain requirements relating to an answer to a petition; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 4 of this regulation revises provisions governing the methods of giving public notice of certain filings and proceedings of the Public Utilities Commission of Nevada.

Existing regulations require the Secretary of the Commission to establish, maintain and publish a list of persons that will be provided with copies of service of process and other documents in certain proceedings. (NAC 703.296) **Section 9** of this regulation requires the Secretary to make the list available for viewing on the Internet website of the Commission.

Section 10 of this regulation revises the requirements for a person to participate in a contested case as a commenter.

Existing regulations require an answer to an order to show cause or a complaint to specifically admit or deny each material allegation in the order or complaint. (NAC 703.570)

Section 13 of this regulation eliminates this requirement and instead requires that the answer address each material allegation.

Section 14 of this regulation revises provisions governing motions to dismiss certain prohibited applications for rate increases.

Section 15 of this regulation eliminates a reference to a repealed regulation and requires a provider of last resort of basic service which is authorized by the Commission to be regulated pursuant to a plan of alternative regulation to submit certain annual reports.

Section 16 of this regulation provides that the Commission adopts by reference the *National Electrical Safety Code* in the form most recently approved by the American National Standards Institute and sets forth a process by which the Commission may review subsequent revisions.

Section 17 of this regulation provides that the Commission adopts by reference Standard Nos. 58 and 59 in the form most recently published by the National Fire Protection Association and sets forth a process by which the Commission may review subsequent revisions.

Sections 19-21 and 26 of this regulation provide that the Commission adopts by reference the regulations contained in 18 C.F.R. Parts 41, 101, 201 and 290, 18 C.F.R. §§ 292.101 to 292.207, inclusive, and 47 C.F.R. §§ 36.1 et seq., in the form most recently published by the United States Government Printing Office.

Section 22 of this regulation provides that the Commission adopts by reference the *Energy Standard 90.1, User's Manual*, in the form most recently published by the American Society of Heating, Refrigeration and Air-Conditioning Engineers and the *International Energy Conservation Code* in the form most recently published by the International Code Council.

Section 27 of this regulation eliminates certain requirements relating to an answer to a petition.

Section 1. NAC 702.430 is hereby amended to read as follows:

702.430 1. A copy of any form that is required to be used pursuant to NAC 702.150 to 702.450, inclusive, may be:

- (a) Obtained at the Internet website of the Commission ; ~~{at <http://www.puc.state.nv.us>;}~~
- (b) Obtained at an office of the Commission; or
- (c) Obtained from the Commission by a written request sent to the principal office of the Commission in Carson City, Nevada, by United States mail or other messenger or delivery service.

2. The available forms include:

- (a) UEC report;
- (b) Retail customer report;
- (c) Prepayment report;
- (d) Request for refund; and
- (e) Request for exemption.

Sec. 2. Chapter 703 of NAC is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided in NAC 703.481, “contested case” has the meaning ascribed to it in NRS 233B.032.

Sec. 3. NAC 703.019 is hereby amended to read as follows:

703.019 “Commenter” means a person who participates in a ~~proceeding~~ *contested case* as a commenter pursuant to NAC 703.491.

Sec. 4. NAC 703.160 is hereby amended to read as follows:

703.160 1. The Secretary shall cause public notice of each filing or proceeding described in subsection 10 to be published in the manner prescribed in this section. ~~The~~ *If a notice is required to be published in a newspaper pursuant to subsection 6, the* publisher of the public notice ~~shall,~~ *must*, not later than 5 days after publication of the notice, provide to the Commission proof of the publication of the notice. The proof must include:

- (a) The name of the newspaper in which the notice was published;
- (b) The name of the county in which the notice was published;
- (c) A statement signed by the publisher that the newspaper in which the notice was published is a newspaper of general circulation in the county in which the notice was published; and

(d) The date of the publication of the notice.

2. Except as otherwise provided in this section, if the Secretary determines that *public notice of a filing or proceeding is required to be published in a newspaper pursuant to subsection 6 and* the filing or proceeding will have:

(a) A statewide effect, the Secretary ~~{shall}~~ *must* cause the public notice to be published once in four or more newspapers of general circulation in this State, no two of which are published in the same county.

(b) An effect on a limited number of counties, the Secretary ~~{shall}~~ *must* cause the public notice to be published once in a newspaper of general circulation in each county affected. If there is no newspaper published in an affected county, the Secretary ~~{shall}~~ *must* cause the public notice to be published once in a newspaper of general circulation in an adjoining county.

3. The Secretary will post each business day on the Internet website of the Commission a current list of all public notices published pursuant to this section.

4. ~~{The}~~ *A* public notice *published in a newspaper* must be an advertisement which is not less than 1 column inch by 3 inches, with a border on all sides . ~~{, and}~~

5. A public notice must include, as appropriate:

(a) At the beginning of the notice, a title that generally describes the relief requested or the type of proceeding scheduled;

(b) The name of the applicant, complainant or petitioner or the name of the agent for the applicant, complainant or petitioner;

(c) A brief description of the purpose of the filing or proceeding, including, without limitation, a clear and concise introductory statement that summarizes the relief requested or the type of proceeding scheduled ; ~~{and the effect of the relief or proceeding upon consumers;}~~

(d) The location where the filing is on file for the public or the location and time for the proceeding; and

(e) The date by which persons must file *written* comments ~~{notices of intent to participate as a commenter}~~ or petitions for leave to intervene with the Commission.

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

~~{5-}~~ 6. If the notice is:

(a) A public notice for *a workshop*, a hearing ~~{}~~ *or a prehearing conference*, the Secretary ~~{shall}~~ *must* cause the notice ~~{of hearing}~~ to be:

(1) ~~{Served on}~~ *Distributed to* each party *, if applicable*, and published *on the Internet website of the Commission* at least ~~{10}~~ :

(I) Fifteen days before a workshop conducted pursuant to subsection 2 of NRS 233B.061 is held; and

(II) Ten days before the hearing or prehearing conference or a workshop other than a workshop described in sub-subparagraph (I) is held; ~~{and}~~

(2) Posted at the principal office of the Commission at least 3 days before the ~~{hearing}~~ *proceeding* is held ~~{}~~ ; and

(3) Published in the appropriate newspapers not less than 10 days before a hearing on a proposed regulation.

(b) For a filing or a ~~{proceeding other than a hearing}~~ *consumer session*, the Secretary shall cause the public notice to be published in the appropriate newspapers not less than 3 working days before the proposal in the filing becomes effective or the ~~{proceeding}~~ *consumer session* is held.

~~{6.}~~ 7. The applicant, complainant or petitioner shall timely pay the cost of the publication ~~{}~~ *in a newspaper*. If the applicant, complainant or petitioner fails to timely pay the cost of the publication, the Commission may, after notice and an opportunity to be heard and upon due consideration of all relevant circumstances, dismiss the applicable filing without prejudice, seek an administrative fine pursuant to NRS 703.380, or both dismiss the applicable filing without prejudice and seek an administrative fine.

~~{7.}~~ 8. On a weekly basis, the Commission will ~~{cause to be published}~~ *post on its Internet website* a summary of public notices concerning the filings and proceedings described in subsection 10. ~~{The summary of public notices will be published in the Sunday edition of a newspaper of general circulation in Carson City and such other newspapers as determined by the Secretary.}~~

~~—8.— If public notice of a filing or proceeding is published by the Secretary pursuant to this section, the~~

9. *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}~~ *posted* 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. Except as otherwise provided pursuant to subsection 12, 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.

(g) A hearing.

11. The provisions of this section do not apply to a quarterly adjustment to a base tariff energy rate or a quarterly adjustment to a deferred energy accounting adjustment made pursuant to NRS 704.110.

12. The provisions of this section do not apply to a petition submitted to the Commission pursuant to NAC 703.290.

Sec. 5. NAC 703.162 is hereby amended to read as follows:

703.162 A person who causes an application, tariff filing, complaint or petition described in paragraphs (a), (b) and (c) of subsection 10 of NAC 703.160 to be filed with the Commission must include in the application, tariff, complaint or petition:

1. A draft of the public notice that complies with the provisions of paragraphs (a), (b) and (c) of subsection ~~4~~ 5 of NAC 703.160; and

2. A statement indicating whether a consumer session is required to be held pursuant to NRS 704.069.

Sec. 6. NAC 703.284 is hereby amended to read as follows:

703.284 In any proceeding undertaken by the Commission in response to a request submitted to the Commission pursuant to 47 U.S.C. § 252 to arbitrate unresolved issues or to approve a negotiated or mediated agreement:

1. The petitioner and any other party to the negotiation or agreement who is not petitioning:

- (a) Will be recognized as parties; and
- (b) May engage in discovery, submit testimony, examine witnesses and otherwise fully participate in the proceedings.

2. The staff of the Commission, as designated by the Commission, and the Consumer's Advocate may:

- (a) Engage in discovery;
- (b) Participate in any public hearing;
- (c) Review unredacted copies of filings and responses to requests for discovery by the parties upon the execution of an appropriate protective agreement by the staff or the Consumer's Advocate, as appropriate; and
- (d) Submit comments and recommendations to the presiding Commissioner pursuant to the schedule for the submission of such comments and recommendations established by the presiding Commissioner.

3. Any other interested person or entity that files ~~a notice of intent to comment~~ *written comments* with the Commission may:

- (a) Participate in any public hearing;
- (b) Review unredacted copies of filings and responses to requests for discovery by the parties upon the execution of an appropriate protective agreement by the person or entity seeking to review the filings and responses; and

(c) Submit comments and recommendations to the presiding Commissioner pursuant to the schedule for the submission of such comments and recommendations established by the presiding Commissioner.

Sec. 7. NAC 703.286 is hereby amended to read as follows:

703.286 1. A petition for arbitration of unresolved issues submitted in accordance with 47 U.S.C. § 252 must include, in addition to the information required by 47 U.S.C. § 252(b)(2):

- (a) The name of the person or entity submitting the petition.
- (b) The name of the person or entity with whom the petitioner has been negotiating.
- (c) The date on which the request to negotiate was submitted to the local exchange carrier.
- (d) A copy of the request to negotiate and, if any dispute exists regarding the date on which the request was submitted to or received by the local exchange carrier, as appropriate, an explanation of the dispute.

- (e) A description of the relief which is being requested and a copy of the agreement or proposed language for an agreement for interconnection services or network elements which is being proposed by the petitioner.

- (f) Reference to any:

- (1) Regulations or statutes; or
 - (2) Opinions or decisions of the Federal Communications Commission, the Commission, the federal or state courts, or other persons or entities,

↪ which the petitioner believes are relevant to the resolution of the dispute.

- (g) A copy of all available studies and other materials relating to cost and pricing which justify or support the position of the petitioner.

(h) A certificate of service demonstrating that the petition has been served upon the other party to the negotiations, the staff of the Commission and the Consumer's Advocate and that a copy of the petition has been provided to each person and entity on the list for notification established pursuant to NAC 703.296.

(i) Any other information that the petitioner believes will be useful to the Commission.

2. An answer filed pursuant to 47 U.S.C. § 252(b)(3) must include:

(a) A response to each allegation made by the petitioner.

(b) The position on each unresolved issue which the answering party recommends that the Commission adopt and a copy of the agreement or proposed language for an agreement for interconnection services or network elements, or both, which the answering party supports.

(c) 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,

↪ which the answering party believes are relevant to the resolution of the dispute.

(d) Copies of all available studies and other materials relating to cost and pricing which justify or support the position of the answering party.

(e) A certificate of service demonstrating that the answer has been served upon all other parties to the negotiations, the staff of the Commission and the Consumer's Advocate and that copies of the answer have been provided to each ~~person and entity who has filed a notice of intent to comment with the Commission.~~ commenter.

(f) Any other information which the answering party believes will be useful to the Commission.

Sec. 8. NAC 703.288 is hereby amended to read as follows:

703.288 1. The presiding officer of a proceeding concerning a petition for arbitration filed in accordance with 47 U.S.C. § 252 shall use such procedures as are necessary to enable the presiding officer to issue a proposed order regarding the issues which have been submitted for resolution not later than 240 days after the date on which the request for negotiation was submitted to the local exchange carrier.

2. Not later than 10 days after the date on which a petition for arbitration is filed with the Commission, 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 arbitration has been received. The notice must specify the date:

- (a) By which an answer must be filed.
- (b) By which ~~fa notice of intent to comment~~ *written comments* must be filed.
- (c) On which a prehearing conference will be convened.

3. An order for a prehearing conference issued by a presiding officer to consider a petition for arbitration must specify:

- (a) The date on which an evidentiary hearing will be convened; and
- (b) Any other matters deemed appropriate by the presiding officer, including reply comments, if desired.

4. The presiding officer shall prepare a proposed order which must be submitted to the Commission not later than 240 days after the date on which the request to negotiate was submitted to the local exchange carrier. The proposed order must be:

- (a) Filed with the Commission;

(b) Served on the parties to the proceeding, the staff of the Commission and the Consumer's Advocate; and

(c) Provided to each ~~{person and entity who filed a notice of intent to comment.}~~ *commenter.*

5. Any party or interested person or entity may file comments regarding the proposed order not later than 10 days after the date on which it is filed with the Commission. The scope of such comments must be limited to whether:

(a) The proposed agreement adopted by the proposed order discriminates against any telecommunications carrier that is not a party to the agreement;

(b) The implementation of the proposed agreement is consistent with the public interest, convenience and necessity; or

(c) The proposed 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.

6. Any party or interested person or entity may file a response to any comments filed pursuant to subsection 5. Such responses must be filed with the Commission not later than 5 days after the date on which the comments are filed and may not exceed five pages in length.

Sec. 9. NAC 703.296 is hereby amended to read as follows:

703.296 1. The Secretary of the Commission shall establish a list of natural persons and entities that will be provided with copies of service of process and other documents in accordance with NAC 703.280 to 703.296, inclusive.

2. The Secretary shall ~~{regularly publish notices}~~ *make the list established pursuant to this section available* for *viewing on the Internet website of the Commission and provide* the opportunity ~~{of}~~ *for* other natural persons and entities to be included on the list. ~~{established}~~

~~pursuant to this section. Such a notice of opportunity must be made in the manner set forth in subsection 2 of NAC 703.160.~~

3. The Secretary shall include on the list established pursuant to this section each natural person and entity that submits to the Commission a written request to be included on the list.

4. The Secretary shall include on the list established pursuant to this section an electronic mail address for each natural person and entity on the list.

Sec. 10. NAC 703.491 is hereby amended to read as follows:

703.491 1. A person who is not a party to a ~~{proceeding}~~ *contested case* may participate in the ~~{proceeding}~~ *contested case* 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 intervenor; or~~

~~—(b) The person does not have a direct and substantial interest in the proceeding to participate in it as an intervenor but~~ the person desires to file written comments concerning issues in the ~~{proceeding}~~ *contested case*.

2. To participate in the ~~{proceeding}~~ *contested case* as a commenter, the person must file with the Commission ~~{a notice of intent to participate}~~ *written comments before the scheduled hearing on the contested case and identify the person* as a ~~{commenter}~~ *“commenter” in all written comments that the person files*. If the person files such ~~{notice}~~ *written comments before the scheduled hearing*, the Commission will place the ~~{person}~~ *commenter* on the service list maintained *for that contested case* by the Commission, and the ~~{person}~~ *commenter* will receive ~~{from the Commission copies}~~ *notifications* of Commission-issued ~~{pleadings in the proceeding}~~ *notices and orders thereafter*.

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. Before 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 *of a commenter* will be made part of the record of the ~~{proceeding,}~~ *contested case*, but the written comments will not be treated as evidence.

~~{5,}~~ 4. A commenter is not a party of record to the ~~{proceeding,}~~ *contested case*, 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,}~~ 5. If, during the pendency of the ~~{proceeding,}~~ *contested case*, a commenter claims to have a direct and substantial interest in the ~~{proceeding,}~~ *contested case* and desires to participate in the ~~{proceeding,}~~ *contested case* as an intervener, the commenter may file a petition for leave to intervene with the Commission pursuant to NAC 703.578 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. 11. NAC 703.500 is hereby amended to read as follows:

703.500 Except as otherwise provided by specific regulation ~~{, in}~~ :

1. In any proceeding before the Commission ~~{,}~~

~~—1. Each~~, *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. ~~Each~~ *In any contested case, each* commenter is entitled to file written comments with the Commission pursuant to NAC 703.491.

Sec. 12. NAC 703.510 is hereby amended to read as follows:

703.510 1. Subject to the specific requirements provided in this section for representation by an attorney, in any proceeding before the Commission, a person may represent himself or herself or may be represented by an attorney or any other person who satisfies the Commission or the presiding officer that the person possesses the expertise and is otherwise competent to advise and assist in the presentation of matters before the Commission. The Commission may, for good cause shown, exclude any representative or impose conditions upon the participation of any representative appearing before the Commission pursuant to the provisions of this section.

2. The provisions of this section rather than the provisions of Nevada Supreme Court Rule 42 govern appearances before the Commission by attorneys who are not admitted and entitled to practice before the Supreme Court of Nevada.

3. An attorney appearing in any proceeding before the Commission must be duly admitted to practice and in good standing before the highest court of any state or the District of Columbia.

4. With respect to any attorney appearing as a representative in a contested case:

(a) An attorney who is not admitted and entitled to practice before the Supreme Court of Nevada and who does not reside in Nevada must associate with an attorney so admitted and entitled to practice and must file a notice of association with the Commission as provided in this section, unless, except as otherwise provided in paragraph (b), the attorney who is not admitted and entitled to practice before the Supreme Court of Nevada and who does not reside in Nevada has appeared before the Commission in the same substantive area of utility regulation in the 3 years immediately preceding the date on which the case is accepted for filing. For the purposes

of this paragraph, the regulation of railroads, telecommunications carriers, water utilities, electric utilities and natural gas utilities are deemed to be different substantive areas of utility regulation.

(b) Notwithstanding any prior appearances before the Commission, the Commission, for good cause shown, may require the attorney who is not admitted and entitled to practice before the Supreme Court of Nevada and who does not reside in Nevada to associate with an attorney so admitted and entitled to practice and to file a notice of association as provided in this section.

5. A notice of association required pursuant to this section must:

(a) Identify each jurisdiction in which the attorney who is required to file the notice is duly admitted and in good standing;

(b) Identify by name and State Bar of Nevada identification number the attorney with whom the attorney who is required to file the notice is associating;

(c) Describe the qualifications of the attorney who is required to file the notice to advise and assist in the presentation of the contested case before the Commission; and

(d) Be signed by the attorney who is required to file the notice and by the attorney with whom the attorney who is required to file the notice is associating.

6. Except as otherwise provided in subsection 7, the Commission or presiding officer may require the attorney who is admitted and entitled to practice before the Supreme Court of Nevada and who is identified in a notice of association required by this section to sign any pleadings and be present at any proceeding on the record.

7. An attorney who resides in Nevada and who is not admitted and entitled to practice before the Supreme Court of Nevada may not appear in any proceeding before the Commission unless the attorney:

(a) Is qualified or has an application for qualification pending for the limited practice of law pursuant to Nevada Supreme Court Rule 49.10; and

(b) Associates with an attorney who is admitted and entitled to practice before the Supreme Court of Nevada and files a notice of association as provided in this section. The attorney who is admitted and entitled to practice before the Supreme Court of Nevada and who is identified in a notice of association required by this section must sign any pleadings and be present at any proceeding on the record.

8. An attorney from the Regulatory Operations Staff shall represent the Regulatory Operations Staff in all proceedings before the Commission.

~~{9. As used in this section, the term “contested case” has the meaning ascribed to it in NRS 233B.032.}~~

Sec. 13. NAC 703.570 is hereby amended to read as follows:

703.570 1. A party to a proceeding who desires to contest ~~{a petition,}~~ an order to show cause or a complaint or make any representation about it to the Commission may file an answer with the Commission.

2. An answer to an order to show cause or a complaint must:

(a) Be in writing; ~~{and}~~

(b) ~~{Specifically admit or deny}~~ *Address* each material allegation ; and

(c) Separately state ~~{any new matter constituting a defense. Matters}~~ *and number any matter* alleged by way of an affirmative defense . ~~{must be separately stated and numbered.}~~

3. If an amendment or correction to a pleading is filed before the filing of an answer, the time within which to answer will be computed from the date of service of the amendment or correction unless the Commission or presiding officer directs otherwise.

4. Except as otherwise ordered by the Commission, the facts set forth in an amendment or correction shall be deemed admitted if an answer to the amendment or correction is not filed. If a party does wish to answer an amendment or correction, the party must file an answer within 15 days after the service of the amendment or correction unless the Commission or presiding officer directs otherwise.

5. Amendments or corrections made after the filing of an answer need not be answered.

6. Failure to file an answer or failure to indicate a jurisdictional defect in an answer does not waive the right to object to a jurisdictional defect.

Sec. 14. NAC 703.577 is hereby amended to read as follows:

703.577 1. A motion ~~by a party~~ to dismiss an application that is within the prohibition of paragraph (e) of subsection 1 of NRS 704.100 *may be filed by:*

(a) A party; or

(b) A person who has filed a petition for leave to intervene in the applicable proceeding pursuant to NAC 703.578 to 703.600, inclusive, unless that petition has been denied by the Commission.

2. A motion filed pursuant to this section must be ~~in~~ :

(a) In writing ; and ~~filed~~

(b) Filed with the Commission no later than 15 days after the date ~~the application is filed with~~ *set by* the Commission ~~for~~

~~—2.—~~ *for persons to file petitions for leave to intervene.*

3. The applicant , *the Consumer's Advocate* and the Commission's staff, if not the moving party, may respond to the motion within 7 days after it is filed. The response must be in writing.

~~13.1~~ 4. The Commission will hold a hearing on the motion no later than 5 days after the time for response has expired and will render a decision on the motion within 30 days after the date the ~~application~~ motion is filed.

Sec. 15. NAC 704.225 is hereby amended to read as follows:

704.225 1. Except as otherwise provided in this subsection, each entity described in subsection 1 of NRS 703.191 shall submit to the Commission an annual report on or before May 15 of the year following the year for which the annual report is filed. A telecommunication provider is not required to submit an annual report pursuant to this section and shall submit an annual report pursuant to NAC 704.7483. ~~1A provider of last resort of basic service which is authorized by the Commission to be regulated pursuant to a plan of alternative regulation is not required to submit an annual report pursuant to this section and shall submit an annual report pursuant to NAC 704.6849.1~~

2. An entity submitting an annual report pursuant to subsection 1 shall include in the annual report:

- (a) A statement of income;
- (b) A balance sheet;
- (c) A statement of intrastate revenue;
- (d) The number of customers served by the entity; and
- (e) Any additional information requested by the Commission pursuant to subsection 3.

3. The Commission may request that an entity submitting an annual report pursuant to subsection 1 include in the annual report any additional information that the Commission deems necessary for inclusion in the annual report.

Sec. 16. NAC 704.450 is hereby amended to read as follows:

704.450 1. The Commission hereby adopts by reference the *National Electrical Safety Code* ~~1997 Edition (ANSI C2-1997),~~ *in the form most recently* approved by the American National Standards Institute and approved and published by the Institute of Electrical and Electronics Engineers, Inc. , *unless the Commission gives notice that the most recent publication is not suitable for this State pursuant to subsection 3.*

2. The *National Electrical Safety Code* is available ~~at a charge~~ *for the price* of ~~(\$60)~~ *\$151* per copy for members of the Institute of Electrical and Electronics Engineers, Inc., and ~~(\$75)~~ *\$185* per copy for nonmembers ~~upon request made to the Institute of Electrical and Electronics Engineers, Inc., Customer Service, 445 Hoes Lane, P.O. Box 1331, Piscataway, New Jersey 08855-1331.~~ *from Techstreet, 3916 Ranchero Drive, Ann Arbor, Michigan 48108 or at the Internet address <http://www.techstreet.com/ieee>.*

3. *The Commission will review each revision of the publication adopted by reference pursuant to subsection 1 to determine its suitability for this State. If the Commission determines that the revision is not suitable for this State, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Commission does not revise its determination, the Commission will give notice that the revision is not suitable for this State within 30 days after the hearing. If the Commission does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.*

Sec. 17. NAC 704.461 is hereby amended to read as follows:

704.461 1. The Commission hereby adopts by reference Standard No. 58 ~~(1995 edition)~~ , *NFPA 58: Liquefied Petroleum Gas Code*, and Standard No. 59 ~~(1995 edition) of~~ , *NFPA 59: Utility LP-Gas Plant Code, in the form most recently published by* the National Fire Protection

Association ~~H~~, *unless the Commission gives notice that the most recent publication is not suitable for this State pursuant to subsection 3.*

2. Copies of these standards are available from the National Fire Protection Association, ~~{One Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101.}~~ *11 Tracy Drive, Avon, Massachusetts 02322 or at the Internet address <http://catalog.nfpa.org>.* The cost of a copy of Standard No. 58 is ~~{ \$29.25,}~~ *\$58.00*, and the cost of a copy of Standard No. 59 is ~~{ \$22.25,}~~ *\$44.50*.

3. *The Commission will review each revision of the publications adopted by reference pursuant to subsection 1 to determine its suitability for this State. If the Commission determines that the revision is not suitable for this State, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Commission does not revise its determination, the Commission will give notice that the revision is not suitable for this State within 30 days after the hearing. If the Commission does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.*

Sec. 18. NAC 704.569 is hereby amended to read as follows:

704.569 1. Except as otherwise provided in this section, a public utility that is required to maintain a fire hydrant pursuant to NRS 704.660 shall:

(a) Maintain the fire hydrant in compliance with:

- (1) The *International Fire Code*; and
- (2) The *Uniform Plumbing Code*.

(b) Inspect and operate the fire hydrant:

- (1) Not less than once each year; and

(2) Not later than 3 days after receiving notice that the fire hydrant is not in compliance with the *International Fire Code* or the *Uniform Plumbing Code*.

(c) If the utility discovers that the fire hydrant is not in compliance with the *International Fire Code* or the *Uniform Plumbing Code*, the utility shall, not later than 24 hours after the discovery:

- (1) Notify the local agency having jurisdiction over fire protection;
- (2) Install and maintain on the fire hydrant an out-of-service ring or bag that is approved by the local agency having jurisdiction over fire protection; and
- (3) Repair the fire hydrant as soon as practicable, but in any case, not later than 30 days after discovery of the noncompliance unless the local agency having jurisdiction over fire protection agrees to a later date for the completion of the repairs and the utility notifies the Commission of the agreement.

(d) Paint and maintain the fire hydrant in a color scheme that is approved by the local agency having jurisdiction over fire protection.

(e) Obtain the approval of the local agency having jurisdiction over fire protection and the Commission before removing a fire hydrant from service.

(f) If the local agency having jurisdiction over fire protection has established a plan for inspecting fire hydrants, coordinate the utility's inspections with the local agency.

2. The Commission hereby adopts by reference:

(a) The *International Fire Code*, 2006 edition, published by the International Code Council. The publication may be obtained from the International Code Council, 500 New Jersey Avenue, N.W., 6th Floor, Washington, D.C. 20001-2070, by telephone at (800) 422-7233, or at the

Internet address <http://www.iccsafe.org>. The price of the publication is ~~1564.001~~ \$79 for members and ~~185.501~~ \$105 for nonmembers.

(b) The *Uniform Plumbing Code*, 2006 edition, published by the International Association of Plumbing and Mechanical Officials. The publication may be obtained from the International Association of Plumbing and Mechanical Officials, ~~150011~~ 4755 East Philadelphia Street, Ontario, California 91761-2816, by telephone at (800) 854-2766, or at the Internet address <http://www.iapmo.org>. The price of the publication is ~~1574 for members and 193 for nonmembers.1~~ \$50.

3. The Commission will review each revision of the publications adopted by reference pursuant to subsection 2 to determine its suitability for this State. If the Commission determines that the revision is not suitable for this State, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Commission does not revise its determination, the Commission will give notice that the revision is not suitable for this State within 30 days after the hearing. If the Commission does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 2.

Sec. 19. NAC 704.640 is hereby amended to read as follows:

704.640 1. The Commission hereby adopts by reference the regulations contained in 18 C.F.R. ~~1Parts1~~ **Part** 201 ~~1and 204 as those regulations exist on April 1, 2009.1~~ **in the form most recently published by the United States Government Printing Office.** The volume containing ~~1the Uniform System of Accounts for Natural Gas Companies1~~ **18 C.F.R. Parts 1-399** is available by mail from the Superintendent of Documents, United States Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, by toll-free telephone at (866) 512-

1800 or on the Internet at **http://bookstore.gpo.gov**, for the price of \$68. The ~~{volume}~~ *regulations* may be accessed free of charge on the Internet at

~~{http://www.gpoaccess.gov/cfr/index.html.}~~ <http://www.gpo.gov/fdsys>.

2. ~~{If the publication adopted by reference pursuant to subsection 1 is revised, the}~~ *The* Commission will review ~~{the}~~ *each* revision *of the publication adopted by reference in subsection 1* to determine its suitability for this State. If the Commission determines that the revision is not suitable for this State, the Commission will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Commission does not revise its determination, the Commission will give notice that the revision is not suitable for this State within 30 days after the hearing. If the Commission does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.

Sec. 20. NAC 704.650 is hereby amended to read as follows:

704.650 1. The Commission hereby adopts by reference the regulations contained in 18 C.F.R. Parts 41, 101 and 290 ~~{, as those regulations exist on April 1, 2009.}~~ *in the form most recently published by the United States Government Printing Office.* The volume containing 18 C.F.R. *Parts* 1-399 is available by mail from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, by toll-free telephone at (866) 512-1800 or on the Internet at **http://bookstore.gpo.gov**, for the price of \$68.

The ~~{volume}~~ *regulations* may be accessed free of charge on the Internet at

~~{http://www.gpoaccess.gov/cfr/index.html.}~~ <http://www.gpo.gov/fdsys>.

2. ~~{If the publication adopted by reference pursuant to subsection 1 is revised, the}~~ *The* Commission will review ~~{the}~~ *each* revision *of the publication adopted by reference pursuant to*

subsection 1 to determine its suitability for this State. If the Commission determines that the revision is not suitable for this State, the Commission will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Commission does not revise its determination, the Commission will give notice that the revision is not suitable for this State within 30 days after the hearing. If the Commission does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.

Sec. 21. NAC 704.7559 is hereby amended to read as follows:

704.7559 1. Statement E must contain the applicant's assurance to the Commission that the:

(a) Applicant has allocated its expenses, including all taxes and investment in the rate base, according to the standards set forth in ~~the Federal Communications Commission's Separations Manual,~~ 47 C.F.R. ~~67.1,~~ *§§ 36.1 et seq.*, or as otherwise directed by the Commission. The ~~manual is~~ *Commission* hereby ~~adopted~~ *adopts* by reference ~~as it existed on June 15, 1985. A copy of the manual may be obtained from the National Association of State Utility Regulatory Commissioners, Interstate Commerce Commission Building, P.O. Box 684, Washington, D.C. 20044-0684,~~ *47 C.F.R. §§ 36.1 et seq., in the form most recently published by the United States Government Printing Office. The volume containing 47 C.F.R. Parts 20-39 is available by mail from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, by toll-free telephone at (866) 512-1800 or on the Internet at <http://bookstore.gpo.gov>, for the price of \$2.50.* *\$52. The regulations may be accessed free of charge on the Internet at <http://www.gpo.gov/fdsys>.*

(b) Studies of cost which it used in the preparation of the application are available for inspection at a single, identified location.

(c) Applicant's employees and consultants who participated in the preparation of the application will be made available, upon request, to aid the Commission's staff and the Consumer's Advocate.

2. The applicant's working papers must fully disclose the source and method of calculation of all allocations which are used in adjustments and are related to the effect of divestiture.

Sec. 22. NAC 704.803 is hereby amended to read as follows:

704.803 The Commission hereby adopts by reference:

1. *Energy Standard 90.1, ~~2001~~ User's Manual, in the form most recently* published by the American Society of Heating, Refrigeration and Air-Conditioning Engineers. ~~As the manual existed on January 1, 2006.~~ A copy of this publication may be obtained from ASHRAE, Publication Sales Department, 1791 Tullie Circle, N.E., Atlanta, Georgia ~~30329-2305,~~ *30329 or at the Internet address <http://www.techstreet.com/ashrae/> for the price of ~~\$74~~ \$98 for members and ~~\$93~~ \$115 for nonmembers.*

2. The ~~2006~~ *International Energy Conservation Code, in the form most recently* published by the International Code Council. This code may be obtained from the International Code Council, ~~5203 Leesburg Pike, Suite 600, Falls Church, Virginia 22041-3401,~~ *500 New Jersey Avenue, N.W., 6th Floor, Washington, D.C. 20001-2070, or by telephone at (800) 422-7233, or at the Internet address <http://www.iccsafe.org>, for the price of ~~\$25~~ \$34 for members and ~~\$31~~ \$45 for nonmembers.*

Sec. 23. NAC 704.810 is hereby amended to read as follows:

704.810 1. In a utility's announcement of its program for conserving energy in residential buildings, each of its estimates of savings in the cost of energy must be expressed as a percentage of the total amount of energy consumed in a typical single-family dwelling located in the area served by the utility.

2. A typical building in northern Nevada:

- (a) Is one story.
- (b) Is of wood frame construction.
- (c) Has 1,800 square feet of floor area.
- (d) Has 8-foot walls.
- (e) Has 1,800 square feet of attic area.
- (f) Has a crawl space beneath the floor.
- (g) Has ceiling insulation rated as R-30.
- (h) Has wall insulation rated as R-13.
- (i) Has between 50 and 60 square feet of window area facing south.
- (j) Has 20 square feet of door area.
- (k) Has all its heating and cooling ducts in unconditioned areas.
- (l) Exchanges air 1.5 times each hour.
- (m) Has a gas-fired heating system whose average seasonal level of efficiency is at least 74

percent and whose best practices efficiency is 94 percent, as determined by the ~~2006~~

International Energy Conservation Code ~~as~~ adopted by reference pursuant to NAC 704.803.

3. A typical building in southern Nevada:

- (a) Is one story.
- (b) Is of wood frame construction.

- (c) Has 1,800 square feet of floor area.
 - (d) Has 8-foot walls.
 - (e) Has 1,800 square feet of attic area.
 - (f) Is constructed on a concrete slab.
 - (g) Has ceiling insulation rated as R-30.
 - (h) Has wall insulation rated as R-13.
 - (i) Has between 50 and 60 square feet of window area facing south.
 - (j) Has 20 square feet of door area.
 - (k) Has all its heating and cooling ducts in unconditioned areas.
 - (l) Exchanges air 1.5 times each hour.
 - (m) Has a gas-fired heating system whose average seasonal level of efficiency is at least 74 percent and whose best practices efficiency is 94 percent, as determined by the ~~2006~~ *International Energy Conservation Code* as adopted by reference pursuant to NAC 704.803.
 - (n) Has an electric air-conditioning system whose energy efficiency ratio is 7.
4. The estimates must be based on calculations contained in the *Energy Standard 90.1*, ~~2001~~ *User's Manual*, as adopted by reference pursuant to NAC 704.803, or on other calculations which produce results within 20 percent of those produced through use of the *Energy Standard 90.1*, ~~2001~~ *User's Manual*.
5. After presenting its estimates of savings, the utility shall add the following caveat:

ENERGY SAVINGS DEPEND UPON MANY FACTORS. THE ESTIMATES
CONTAINED IN THIS ANNOUNCEMENT ARE BASED ON ESTIMATES FOR
TYPICAL HOUSES. YOUR ACTUAL SAVINGS IN THE COST OF ENERGY MAY

BE LESS THAN THE ESTIMATES PROVIDED HERE IF YOUR HOUSE IS OF A DIFFERENT SIZE OR IF YOUR HABITS OF USING ENERGY ARE DIFFERENT FROM THOSE ASSUMED. THE INSPECTION WHICH WE OFFER WILL PROVIDE MORE SPECIFIC ESTIMATES FOR YOUR HOUSE.

Sec. 24. NAC 704.822 is hereby amended to read as follows:

704.822 In place of calculations based upon actual measurements and inspection as described in subsection 2 of NAC 704.820, a utility's proposed methodology may allow:

1. A measure for conserving energy to be evaluated without the actual measurements if the estimated costs of installation and the savings in energy which would result from such an installation in the typical house within the applicable climatic zone would not vary more than 15 percent from the costs and savings which would be determined if actual measurements were used.
2. An inspector to use the ~~2006~~ *International Energy Conservation Code*, as adopted by reference pursuant to NAC 704.803.

Sec. 25. NAC 704.862 is hereby amended to read as follows:

704.862 1. The levels of R-values for insulation of ceilings and the appropriateness of thermal windows must be determined in accordance with the ~~2006~~ *International Energy Conservation Code*, as adopted by reference pursuant to NAC 704.803.

2. For the purposes of determining the levels of R-values for insulation in ceilings and the appropriateness of thermal windows pursuant to subsection 1, residential buildings are categorized according to use of fuel, as follows:

(a) Electricity: all residential buildings in which the principal means of heating spaces is by a system of electric resistance heating.

(b) Gas: all residential buildings in which natural gas, propane or butane is the principal fuel used for heating spaces.

(c) Heat pump: all residential buildings in which the principal means of heating spaces is by an electric heat pump.

(d) Oil: all residential buildings in which heating oil or kerosene of grade number 2 is the principal fuel used for heating spaces.

(e) Solar: all residential buildings in which the principal means of heating spaces and water is solar photovoltaic panels or solar thermal panels.

Sec. 26. NAC 704.8775 is hereby amended to read as follows:

704.8775 1. The provisions of 18 C.F.R. §§ 292.101 to 292.207, inclusive, are hereby adopted by reference ~~to as those provisions existed on April 1, 1991.~~ *in the form most recently published by the United States Government Printing Office.*

2. ~~A copy of those provisions may be obtained~~ *The volume containing 18 C.F.R. Parts 1-399 is available by mail* from the ~~Commission at its offices,~~ *Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, by toll-free telephone at (866) 512-1800 or on the Internet at <http://bookstore.gpo.gov>, for the price of ~~25 cents per page.~~ \$68. The regulations may be accessed free of charge on the Internet at <http://www.gpo.gov/fdsys/>.*

Sec. 27. NAC 703.573 is hereby repealed.

TEXT OF REPEALED SECTION

703.573 Answers to petitions. (NRS 703.025, 704.210) An answer to a petition must:

1. Be in writing;
2. Be written so as to advise the Commission and parties of record fully of the nature of the answer;
3. Contain a separate statement and number for each material element of the answer;
4. Be signed by the answering party or, if represented, by his or her attorney or other authorized representative;
5. Include the full name, address and telephone number of the answering party; and
6. Be filed with the Commission within 10 days after service of the petition to which the answer is directed, unless the Commission shortens or extends this time.