

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

LCB File No. R135-15

Effective June 28, 2016

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

AUTHORITY: §1, NRS 703.025, 704.100, 704.210 and 704.68865.

A REGULATION relating to public utilities; revising provisions governing the use of a letter of advice in lieu of an application by a public utility seeking approval for a change in a schedule of rates or services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally requires a public utility to submit an application and obtain the approval of the Public Utilities Commission of Nevada to make a change in any schedule of rates or services. (NRS 704.110) However, existing law also provides that certain public utilities may make such a change by filing a letter of advice in lieu of an application if the proposed change does not change a rate or if the change results in an increase in annual gross operating revenue that does not exceed certain amounts set forth in statute. (NRS 704.100) If the public utility is a small-scale provider of last resort, the increase in its annual gross operating revenue resulting from the proposed change may not exceed \$50,000 or 10 percent of the public utility's annual gross operating revenue, whichever is less. For certain other public utilities, the increase in annual gross operating revenue resulting from a proposed change, before the passage of Assembly Bill No. 75 of the 2015 Legislative Session, could not exceed \$2,500. A.B. 75 increased that amount to \$15,000. (Chapter 67, Statutes of Nevada 2015, at page 280) A.B. 75 also required a public utility that files a change by means of a letter of advice to include a certification or affidavit that the proposed change does not change a rate or result in an increase in the annual gross operating revenue of the public utility in an amount that exceeds the amount set forth in statute.

This regulation revises existing provisions governing the use of letters of advice to incorporate the statutory requirements applicable to small-scale providers of last resort and to conform to the changes made by A.B. 75. This regulation also clarifies that those provisions do not apply to a competitive supplier that is an incumbent local exchange carrier or to certain other public utilities.

Section 1. NAC 703.400 is hereby amended to read as follows:

703.400 1. A tariff sheet covering a service or commodity not previously furnished, a tariff sheet modifying an existing service and a tariff sheet that does not alter any rate or charge may be filed by a letter of advice as described in NAC 703.390.

2. ~~1. An~~ *Except as otherwise provided in NRS 704.100, an* application to increase rates must be made in accordance with the provisions established for pleadings and motions and the requirements for public utilities requesting rate adjustments unless the rate increases generate annual gross revenues ~~1, as certified by the applicant, of \$2,500 or less.~~ *that do not exceed:*

(a) Except as otherwise provided in paragraph (b), the amount set forth in paragraph (f) of subsection 1 of NRS 704.100; or

(b) If the public utility is a small-scale provider of last resort, the amount determined pursuant to paragraph (g) of subsection 1 of NRS 704.100.

3. If the proposed increases ~~involve \$2,500 or less,~~ *do not exceed the amounts established pursuant to subsection 2,* the Commission may accept the filing of a letter of advice ~~1~~ *in lieu of an application* if ~~justification is fully set forth in that letter, without an application made pursuant to NAC 703.2201 to 703.2481, inclusive.~~ :

(a) Except as otherwise provided in paragraph (b), the public utility satisfies the requirements of paragraph (f) of subsection 1 of NRS 704.100, including, without limitation, providing the certification or affidavit required by that paragraph; or

(b) If the public utility is a small-scale provider of last resort, the public utility satisfies the requirements of paragraph (g) of subsection 1 of NRS 704.100, including, without limitation, providing the certification or affidavit required by that paragraph.

4. A change to a tariff that is filed by letter of advice does not become effective until approved by the Commission.

5. A copy of the utility's tariff sheet approved by the Commission will be returned to the utility with a designation of the effective date and constitutes the utility's official copy of the approved tariff sheet on file with the Commission.

6. A competitive supplier that is an incumbent local exchange carrier shall not change any rates, pricing, terms and conditions of intrastate switched or special access service, universal lifeline service or access to emergency 911 service except upon the filing and approval of a letter of advice pursuant to subsection 3 of NRS 704.68873 or in accordance with NAC 704.75295.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS
AS REQUIRED BY NRS 233B.066
LCB FILE R135-15 (DOCKET NO. 15-06043)**

The following informational statement is submitted for adopted amendments to Nevada Administrative Code Chapters 703 and 704.

1. A clear and concise explanation of the need for the adopted regulation.

The proposed regulation is needed to implement the provisions of AB 75. The proposed regulation amends existing regulations and provides changes in schedules of rates or services submitted to the Commission by a public utility. Under existing regulations, public utilities are generally required to submit an application to the Commission and obtain approval for a change in any schedule of rates or services. However, if the proposed change does not change any rate or will result in an increase in annual gross operating revenue in an amount that does not exceed \$2,500, a public utility may submit a letter of advice in lieu of filing an application. AB 75 increased this threshold from \$2,500 to \$15,000. The proposed regulation implements this change in the applicable Commission regulation, NAC 703.400.

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

The Public Utilities Commission of Nevada (“Commission”) issued a copy of the proposed regulations, notice of intent to act upon the regulation, and notice of workshop and hearing. Copies were sent by U.S. mail and email to persons who were known to have an interest in rulemakings.

All of the above documents were also made available at the website of the Commission, <http://puc.nv.gov>, mailed to all county libraries in Nevada, published in the following newspapers:

Ely Times
Las Vegas Review Journal
Nevada Appeal
Reno Gazette Journal
Tonopah Times-Bonanza

and posted at the following locations:

Public Utilities Commission
1150 East William Street
Carson City, Nevada 89701

Public Utilities Commission
9075 West Diablo Drive, Suite 250
Las Vegas, Nevada 89148

Central Telephone Company d/b/a CenturyLink and CenturyTel of the Gem State, Inc. d/b/a Century Link (together referred to as “CenturyLink”), Nevada Bell Telephone Company d/b/a

AT&T Nevada and AT&T Wholesale (“AT&T Nevada”), and the Nevada Telecommunications Association (“NTA”) all submitted comments. AT&T Nevada and NTA each proposed modifications to the proposed regulations.

Copies of the transcripts of the proceedings are available for review at the offices of the Commission, 1150 East William Street, Carson City, Nevada 89701 and 9075 West Diablo Drive, Suite 250, Las Vegas, Nevada 89148.

3. The number of persons who:

(a) Attended each hearing:

January 27, 2016 Workshop: 7

February 3, 2016 Hearing: 4

(b) Testified at each hearing:

January 27, 2016 Workshop: 5

February 3, 2016 Hearing: 1

(c) Submitted to the agency written comments: 3

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:

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5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses in the same manner as they were solicited from the public. See the response to question #2, above.

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.

N/A

5. The estimated economic effect of the adopted regulation on the businesses 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 immediate and long-term effects.**

The proposed regulation is expected to have no adverse immediate or long-term economic effects on the businesses that it is to regulate. The proposed regulation is expected to have beneficial immediate and long-term economic effects on small business utilities because the proposed regulation serves to lessen the regulatory burden to a small business utility by modestly raising the threshold at which the utility has the ability to change rates via an advice letter, allowing certain changes to avoid the cost and time of a rate case.

The proposed regulation is expected to have no adverse immediate or long-term economic effects on the public. The proposed regulation is expected to have beneficial immediate and long-term economic effects on the public by reducing costs.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement of this 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.

This regulation does not overlap or duplicate any federal, state, or local regulations.

8. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

N/A

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.

N/A

10. If the proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?

The Commission finds that the proposed regulation does not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business. In making this determination, the Commission adopted the findings of Staff, which conducted a Delphi Method exercise to determine the impacts. The Delphi Method is a systematic, interactive, forecasting method based on independent inputs of selected experts.