

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

LCB File No. R011-26

March 3, 2026

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

AUTHORITY: §§ 1-4 and 8, NRS 703.025 and 704.210; §§ 5-7, NRS 703.025, 703.190, 703.196, as amended by section 1 of Assembly Bill No. 46, chapter 14, Statutes of Nevada 2025, at page 65, and NRS 704.210; § 9, NRS 455.170, 703.025 and 704.260.

A REGULATION relating to utilities; revising provisions relating to the confidentiality of information disclosed or made available to the Public Utilities Commission of Nevada; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Public Utilities Commission of Nevada to adopt regulations as the Commission deems necessary for the operation of the Commission and for the enforcement of all laws administered by the Commission. (NRS 703.025) With certain exceptions, the records and files in the possession of the Commission are public records and are required to be open at all reasonable times to the public. (NRS 239.010, 703.190) Under existing law, the Commission is authorized to: (1) keep confidential certain information in the records of public utilities and other entities, including, without limitation, trade secrets and confidential commercial information, that are required to be made available to the Commission and its officers and employees; and (2) take such actions as are necessary to prevent the disclosure of such information by persons and governmental entities authorized by existing law to have access to such confidential information. (NRS 703.190, 703.196) Assembly Bill No. 46 of the 2025 Legislative Session provides that if any such confidential information is also privileged, the privilege is not waived as a result of the confidential information being disclosed or made available to the Commission, its officers and employees and other persons and governmental entities authorized by law to have access to the confidential information. (NRS 703.196, as amended by section 1 of Assembly Bill No. 46, chapter 14, Statutes of Nevada 2025, at page 65)

Existing regulations govern changes in rates of public utilities, including requiring certain public utilities that file an application for adjustment of rates or that propose to increase annual gross revenue by a certain amount, as applicable, to: (1) submit a master document for the request of data; (2) complete responses to the questions contained in the master document to the extent possible given the available applicable data and any agreements for the confidentiality of information that have been executed; and (3) discuss at certain meetings the use of agreements for the confidentiality of information. (NAC 703.2201-703.2481, 703.2501-703.27146) **Sections**

1-4 of this regulation specify that the requirements relating to information subject to such agreements for confidentiality include, without limitation, privileged information.

Existing regulations govern the designation, handling and disclosure of information for all proceedings before the Commission, the Chair of the Commission or a commissioner or hearing officer designated or appointed, as applicable, by the Chair to conduct hearings or other proceedings. (NAC 703.527-703.5282) Existing regulations define the term “information” for the purpose of such proceedings to mean 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. (NAC 703.527) **Section 5** of this regulation clarifies that the term includes, without limitation, any privileged information in such books, accounts, records, minutes, reports, papers and property.

Existing regulations further establish the procedures for a person to request that information in possession of the Commission not be disclosed and be made confidential, including requiring any such request to: (1) describe with particularity the information to be treated as confidential information; (2) specify the grounds for the claim of confidential treatment of the information; and (3) specify the period during which the information is required to be retained, subject to certain limitations. (NAC 703.5274) **Section 6** of this regulation requires any such request based on a claim of privilege to also include a privilege log that identifies: (1) each privilege claimed and the legal authority upon which the claim of privilege is based; (2) the nature of the information; (3) the identity of each person or entity who sent or received or is known to have been furnished or informed of the substance of the information; and (4) the dates upon which the information was generated or otherwise prepared and dated. **Section 6** also: (1) places the burden of proof to demonstrate that the information is entitled to confidential treatment on the party seeking that treatment; and (2) makes an exception to the prohibition in existing regulations that no document submitted to the Commission through the electronic filing system may contain any information requested to be confidential for the circumstances in which the Commission or a presiding officer has otherwise determined that the information is not confidential or privileged.

Existing regulations prohibit the disclosure of information which has been so requested and designated as confidential by any person who receives the information unless the confidentiality of the information is waived, including if the Commission or a presiding officer enters an order which authorizes the disclosure of the information. (NAC 703.5282) **Section 7** of this regulation specifies that such an order may be entered only after the Commission or presiding officer has determined that the information is not entitled to confidential treatment.

Existing regulations govern discovery in proceedings before the Commission, including discovery related to complaints concerning excavations or demolitions near subsurface installations. Existing regulations authorize a party to object in whole or in part to a discovery request within 5 business days after receiving the request and requiring the objection to be in writing and state the specific grounds for the objection. (NAC 455.350, 703.680) **Sections 8 and 9** of this regulation provide: (1) if the party is objecting on the basis that the information is confidential or privileged, the party has the burden of proof to demonstrate that the information is entitled to such treatment; and (2) the failure of a party to timely object or comply with the requirements governing confidential treatment of information in proceedings before the Commission constitutes a waiver of the objection, including, without limitation, for the purposes of a discovery dispute heard by a presiding officer.

Existing regulations authorize a party that is responding to a data request during discovery and believes that the response contains information which is commercially sensitive or which constitutes a trade secret to, before providing the response, request that a confidentiality agreement be signed. (NAC 455.350, 703.680) **Sections 8 and 9** also authorize a party to request a confidentiality agreement be signed for information which the party believes is confidential or privileged. **Section 9** also revises the requirements for submission of a claim that a response to a data request contains information that is confidential or privileged.

Section 1. NAC 703.2208 is hereby amended to read as follows:

703.2208 1. A public utility that furnishes electricity, gas, or water or services for the disposal of sewage, or both, which files an application for adjustments in rates must submit a master document for the request of data, together with answers to the questions contained in the document, to:

- (a) The Consumer's Advocate; and
- (b) The Regulatory Operations Staff.

2. The public utility shall:

(a) Submit the master document for the request of data, together with the answers, on the same date as it files the application for adjustments in rates.

(b) Complete as much of the answers to the questions in the master document as possible given the available applicable data and any agreements for the confidentiality of information , *including, without limitation, privileged information*, which have been executed.

3. Except as otherwise provided in this subsection, the master document for the request of data must be submitted in the illustrative format required by the Commission. The illustrative format for a particular master document for the request of data may be changed if the Consumer's Advocate, the Regulatory Operations Staff and the public utility agree to the change. The illustrative format for the master document for the request of data may be obtained at the offices of the Commission.

4. The following entities may request the Commission to change the illustrative format for the master document for the request of data:

- (a) The Consumer's Advocate;
- (b) The Regulatory Operations Staff; or
- (c) The public utility.

5. Any changes which the Commission makes to the illustrative format for the master document for the request of data do not apply to a master document for the request of data submitted by a public utility within 90 days after the Commission approves the changes.

Sec. 2. NAC 703.2209 is hereby amended to read as follows:

703.2209 1. A public utility that furnishes electricity, gas, or water or services for the disposal of sewage, or both, which intends to file an application for adjustments in rates must meet with the Consumer's Advocate and the Regulatory Operations Staff at least 20 days before the anticipated date for filing the application for adjustments in rates.

2. At the meeting, the public utility shall provide updated information regarding the application for adjustments in rates, including:

- (a) Cost of capital;
- (b) Depreciation;
- (c) Cost of service, including any study of the cost of service;
- (d) Design of the proposed rate; and
- (e) Any other material issues known at the time of the meeting.

3. At the meeting, those persons in attendance shall:

(a) Develop guidelines for a preliminary plan for conducting audits. The guidelines must address all matters relating to the audit, including:

(1) The timing of the audits and any necessary meetings to coordinate audits conducted at the site, whether within or outside the State, by the Regulatory Operations Staff and specialized personnel from the public utility and the Bureau of Consumer Protection.

(2) The number of persons representing each interest who will participate in the audits.

(3) The facilities and the supplies that the auditors will need at the locations of the audits.

(b) Discuss a plan and schedule for discovery, and methods of minimizing the duplication of discovery requests.

(c) Discuss the use of agreements for the confidentiality of information ~~H~~, *including, without limitation, privileged information.*

(d) Discuss the review of computer models for data contained in the filing.

(e) Determine which items on the master document for the request of data must be provided on a computer disc or other computer media, and which items must be provided on paper.

(f) Discuss the need for and timing of future meetings, including:

(1) A conference between the public utility, the Regulatory Operations Staff and a representative of the Bureau of Consumer Protection to discuss the results of the audits.

(2) A mandatory settlement conference between all interests to the proceeding. The Regulatory Operations Staff shall convene the settlement conference at least 14 calendar days before the scheduled first day of the hearing on the application for adjustments in rates in accordance with a procedural schedule approved by the Commission.

Sec. 3. NAC 703.2508 is hereby amended to read as follows:

703.2508 1. Except as otherwise provided in subsection 6, if a public utility that provides telecommunication services proposes to increase its annual gross revenue by at least 10 percent

or by more than \$50,000, it must submit a master document for the request of data, together with answers to the questions contained in the document, to:

- (a) The Consumer's Advocate; and
- (b) The Regulatory Operations Staff.

2. The public utility must:

(a) Submit the master document for the request of data, together with the answers, on the same date as it files the application for adjustments in rates.

(b) Complete as much of the answers to the questions in the master document as possible given the available data and any agreements for the confidentiality of information , *including, without limitation, privileged information*, which have been executed.

3. Except as otherwise provided in this subsection, the master document for the request of data must be submitted in the illustrative format required by the Commission. The illustrative format for a particular master document for the request of data may be changed if the Consumer's Advocate, the Regulatory Operations Staff and the public utility agree to the change. The illustrative format for the master document for the request of data may be obtained at the offices of the Commission.

4. The following entities may request the Commission to change the illustrative format for the master document for the request of data:

- (a) The Consumer's Advocate;
- (b) The Regulatory Operations Staff; or
- (c) The public utility which proposes to increase its annual gross revenue by at least 10 percent or by more than \$50,000.

5. Any changes which the Commission makes to the illustrative format for the master document for the request of data do not apply to a master document for the request of data submitted by a public utility that provides telecommunication services within 90 days after the Commission approves the changes.

6. A small-scale provider of last resort which submits an application for a change of rate in accordance with NAC 703.27116 to 703.27146, inclusive, does not have to submit a master document as required by this section.

Sec. 4. NAC 703.2509 is hereby amended to read as follows:

703.2509 1. If a public utility that provides telecommunication services proposes to increase its annual gross revenue by at least 10 percent or by more than \$50,000, it must meet with the Consumer's Advocate and the Regulatory Operations Staff at least 20 days before the anticipated date for filing the application for adjustments in rates.

2. At the meeting, the public utility shall provide updated information regarding the application for adjustments in rates, including:

- (a) Cost of capital;
- (b) Depreciation;
- (c) Cost of service, including any study of the cost of service;
- (d) Design of the proposed rates; and
- (e) Any other material issues known at the time of the meeting.

3. At the meeting, those persons in attendance shall:

(a) Develop guidelines for a preliminary plan for conducting audits. The guidelines must address all matters relating to the audits, including:

(1) The timing of the audits and any necessary meetings to coordinate audits conducted at the site, whether within or outside the State, by the Regulatory Operations Staff and specialized personnel from the public utility and the Bureau of Consumer Protection.

(2) The number of persons representing each interest who will participate in the audit.

(3) The facilities and the supplies that the auditors will need at the locations of the audits.

(b) Discuss a plan and schedule for discovery, and methods of minimizing the duplication of discovery requests.

(c) Discuss the use of agreements for the confidentiality of information ~~H~~, *including, without limitation, privileged information.*

(d) Discuss the review of computer models for data contained in the application.

(e) Determine which items on the master document for the request of data must be provided on a computer disc or other computer media, and which items must be provided on paper.

(f) Discuss the need for and timing of future meetings, including:

(1) A conference between the public utility, the Regulatory Operations Staff and a representative of the Bureau of Consumer Protection to discuss the results of the audits.

(2) A mandatory settlement conference between all interests to the proceeding. The Regulatory Operations Staff shall convene the settlement conference at least 14 calendar days before the scheduled first day of the hearing on the application for adjustments in rates in accordance with a procedural schedule approved by the Commission.

Sec. 5. 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 ~~+~~ *and includes, without limitation, any privileged information therein.*

2. “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. 6. NAC 703.5274 is hereby amended to read as follows:

703.5274 1. A person who requests that information, which is in the possession of the Commission and pertains to that person, not be disclosed and be made confidential shall submit to:

(a) The Secretary of the Commission, one copy of each page of the document which contains the information in an unredacted form. The copy must be printed on pink-colored paper and consist only of the pages containing the information requested to be confidential and, if taken from a larger document, the cover page of the larger document. The document must be placed in a sealed envelope, and the envelope and each page of the document must be stamped with the word “Confidential.” No system document may contain any information requested to be confidential ~~+~~ *unless the Commission or a presiding officer has otherwise determined that the information is not confidential or privileged.*

(b) The Commission, the larger document which redacts the information for which the confidential treatment is requested. If the larger document is submitted via the electronic filing system, the larger document must clearly state that corresponding, unredacted information is being filed pursuant to paragraph (a).

2. A request that information not be disclosed must be attached to the sealed envelope containing the information requested to be confidential and served on the Commission's staff and the Consumer's Advocate and must:

(a) Describe with particularity the information to be treated as confidential information;

(b) Specify the *legal and factual* grounds for the claim of confidential treatment of the information; ~~and~~

(c) Specify the period during which the information must be retained, which may not exceed 5 years unless a request for an extension is granted by the Commission ~~+~~; *and*

(d) For any request that information not be disclosed based on a claim of privilege, include a privilege log that identifies:

(1) Each privilege claimed and the legal authority upon which the claim of privilege is based;

(2) The nature of the information;

(3) The identity of each person or entity who sent or received or is known to have been furnished or informed of the substance of the information; and

(4) The dates upon which the information was generated or otherwise prepared and dated.

3. Public disclosure of only those specific portions of a filing which contain information for which confidentiality is requested will be withheld or otherwise limited.

4. If the information for which confidentiality is requested is part of an application, petition or other initial filing, the application, petition or filing must comply with the provisions of this section. The Commission's initial notice issued pursuant to NRS 703.320 and NAC 703.492 will

state that certain information contained in the application, petition or filing has been requested to be treated as confidential information.

5. The Commission is responsible for the custody, maintenance, and return or disposal of confidential information in the possession of the Commission and will:

(a) Maintain the confidential information separate and apart from all other records of the Commission;

(b) Adequately safeguard access to such information and ensure that confidential information is not divulged to unauthorized persons; and

(c) Properly dispose of the confidential information after the appropriate period of time.

6. *The party seeking confidential treatment of information has the burden of proof to demonstrate that the information is entitled to such treatment.*

7. For the purpose of determining whether to accord confidential treatment to information in accordance with NAC 703.527 to 703.5282, inclusive, a presiding officer may review the information in camera.

~~17.1~~ 8. A closed hearing held before a presiding officer must be held in accordance with the provisions of subsection 3 of NRS 703.196.

~~18.1~~ 9. Notwithstanding the other provisions of this section, the Commission's staff and the Consumer's Advocate are entitled to receive information designated as confidential in accordance with NAC 703.527 to 703.5282, inclusive, if the Commission's staff or the Consumer's Advocate, as appropriate, has executed a protective agreement.

~~19.1~~ 10. A person may request by telephone that information erroneously submitted through the electronic filing system be removed from any publicly accessible areas of the records

management system. Within 2 business days of the request, the person must submit to the Commission:

(a) A letter formally requesting the removal of the information from any publicly accessible areas of the records management system;

(b) A revised version of the information to be substituted for the information erroneously submitted through the electronic filing system; and

(c) A request that the information removed from the publicly accessible areas of the records management system be made confidential.

~~10.1~~ **11.** Submitted information shall not be deemed to be confidential until the requirements of this section are fulfilled in regards to an initial filing of information requested to be confidential or to a subsequent request for confidentiality.

Sec. 7. NAC 703.5282 is hereby amended to read as follows:

703.5282 1. During the pendency of a proceeding, any person who receives information which has been designated as confidential in accordance with NAC 703.527 to 703.5282, inclusive:

(a) Shall not disclose the information unless the confidentiality of the information is waived.

The confidentiality of information shall be deemed to be waived if:

(1) The person who requested that the information not be disclosed makes the information available to the public or otherwise authorizes its disclosure; or

(2) The Commission or presiding officer enters an order which authorizes the disclosure of the information ~~11~~ ***after determining that the information is not entitled to confidential treatment.***

(b) May request, at any time, that the Commission or presiding officer make a determination that the disclosure of the information is justified. The person may accompany his or her request with a sealed copy of the unredacted document or information.

2. The person seeking to have the information protected from disclosure has the burden of proof to demonstrate that the information sought to be disclosed is entitled to that protection.

3. Information which is the subject of an agreement or a protective order will be provided only to the Commission's staff, the Consumer's Advocate, the legal counsel of a party of record and any person who is identified by a party of record as his or her expert for the purposes of reviewing and analyzing the specific matter related to the confidential information.

4. A person, a party, the legal counsel of a party or the expert designated by a party who:

(a) Violates the procedures of the Commission or presiding officer for protecting information;

(b) Fails to obey a protective order issued by the Commission or the presiding officer;

(c) Violates the terms or conditions of a protective agreement; or

(d) Violates any other prohibition of the disclosure of information designated as confidential in accordance with NAC 703.527 to 703.5282, inclusive,

↪ is subject to the penalties and civil remedies prescribed in NRS 703.380 and 704.630, and, after notice and opportunity for a hearing, may be barred by order of the Commission from appearing before the Commission.

Sec. 8. NAC 703.680 is hereby amended to read as follows:

703.680 1. In addition to the provisions of NRS 703.195 and NAC 703.2208 and 703.2508, the parties to any matter that has been assigned a docket number may conduct discovery with regard to any information that is not *confidential or* privileged through written

data requests and oral depositions that are reasonably calculated to obtain information that is relevant to the matter.

2. Upon motion and opportunity for response, the presiding officer may, for good cause shown, prohibit discovery or restrict or modify the scope of discovery. A motion to limit the number of data requests must be filed with the Commission and served upon all parties of record not later than 45 days after the opening of the docket.

3. Except as otherwise provided in subsection 4, a data request, a notice of deposition, and an objection or response to a discovery request must be served upon the appropriate party at the address, telephone number or electronic mail address designated in the application, petition or petition for leave to intervene and may be sent by United States mail, overnight delivery service, facsimile or electronic mail. All data requests must also be served upon the Regulatory Operations Staff and the Bureau of Consumer Protection in the Office of the Attorney General.

4. In lieu of service pursuant to subsection 3, a responding party in a case with a significant volume of discovery responses may deposit those responses in a password-protected website.

5. A notice of deposition must state the date, time and location of the deposition and be served at least 10 business days before the date of the deposition. The deposing party may enumerate in the notice any specific documents the deponent must bring to the deposition.

6. A party may object in whole or in part to a discovery request within 5 business days after receiving the request. An objection to a discovery request must be in writing and state the specific grounds for the objection. *If the party is objecting on the basis that the information is confidential or privileged, the party has the burden of proof to demonstrate that the information is entitled to such treatment in the same manner and subject to the same requirements as provided in NAC 703.527 to 703.5282, inclusive. The failure of a party to*

timely object or comply with these requirements constitutes a waiver of the objection, including, without limitation, for the purposes of a discovery dispute heard by the presiding officer.

7. Unless otherwise ordered by the presiding officer or agreed to by the parties, or unless a timely objection has been made, a response to a data request must be served on or otherwise made available to the requesting party not later than 10 business days after receipt of the request by the responding party, except that the responding party will be allowed an additional 5 business days within which to respond if the responding party timely notifies the requesting party of the need for the additional response time because the responding party is experiencing technical or practical difficulties in providing a thorough response within the 10-day period.

8. Except as otherwise provided in subsection 9, a response to a data request must be submitted in the following quantities to the following persons:

(a) Two copies must be submitted to the attorney of record of the Regulatory Operations Staff, unless directed otherwise by the Regulatory Operations Staff in the data request;

(b) Two copies must be submitted to the attorney of record of the Bureau of Consumer Protection in the Office of the Attorney General; and

(c) One copy must be submitted to the requesting party.

9. If a response to a data request is transmitted by electronic mail or deposited in a password-protected website, the responding party shall provide one hard copy of the response to the attorney of record of the Regulatory Operations Staff and one hard copy of the response to the attorney of record of the Bureau of Consumer Protection in the Office of the Attorney General within 2 business days after the due date for the response. The parties may agree to, or the presiding officer may order, an on-site inspection of the response to a data request if the

response involves confidential or voluminous material. If an on-site inspection is agreed to by the parties or ordered by the presiding officer, the responding party shall make reasonable efforts to facilitate the inspection.

10. If a dispute arises concerning discovery, the involved parties shall confer in good faith to attempt to resolve the dispute before seeking resolution by the presiding officer. The presiding officer shall rule on all motions related to discovery.

11. The following standards apply to discovery responses to the extent available in the format requested:

(a) Computer files must be executable in the file format specified by the Regulatory Operations Staff.

(b) Image files must not be used.

(c) Nominally numeric fields, such as account numbers or negative values, must contain numeric data and not literal data.

(d) Spreadsheet computer files that perform calculations must operate so that a change in input causes a change in output.

12. If a party that is responding to a data request believes that the response contains information which is commercially sensitive, ~~for which~~ constitutes a trade secret ~~or is~~ *confidential or privileged*, the party may, before providing the response, request that a confidentiality agreement be signed by specifying the grounds for the claim of confidential treatment of the information. If a confidentiality agreement is signed, the recipient of the information shall not publicly disclose the information except:

- (a) With the approval of the party that requested the confidentiality agreement; or
- (b) Pursuant to an order of a court of competent jurisdiction or the Commission.

13. The parties may agree in writing to alternative discovery procedures and time frames. A party may pursue any other form of discovery provided for in the Nevada Rules of Civil Procedure upon agreement with the party to whom the discovery request is directed or with permission from the presiding officer upon good cause being shown.

14. If a responding party fails to respond adequately after an order from the presiding officer or the Commission concerning discovery, the Commission may, upon the motion of any party of record, enter such order as the Commission deems just, including, without limitation, the dismissal of the application or petition, the imposition of civil penalties pursuant to NRS 703.380, if applicable, or the revocation of intervener status against the nonresponsive party.

15. A response to a motion for discovery must be filed with the Commission and served upon all parties of record within 5 business days after the motion for discovery is filed with the Commission. A reply to the response, if any, must be filed with the Commission within 5 business days after the response is filed with the Commission.

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

17. As used in this section, “data request” means a comprehensive vehicle for obtaining discovery and includes, without limitation, interrogatories, requests for admission, and requests for production of documents or inspection of property.

Sec. 9. NAC 455.350 is hereby amended to read as follows:

455.350 1. The Commission, the staff, any party to a complaint or any potential complainant is subject to the provisions of this chapter concerning discovery, but is not bound by the Nevada Rules of Civil Procedure or title 4 of NRS when conducting:

(a) An investigation relating to a violation of this chapter or NRS 455.080 to 455.180, inclusive, before the filing of a complaint;

(b) Any discovery using a written data request or written interrogatories relating to a violation of this chapter or NRS 455.080 to 455.180, inclusive, before or during the course of a proceeding concerning a complaint;

(c) Any oral deposition relating to a violation of this chapter or NRS 455.080 to 455.180, inclusive, before or during the course of a proceeding concerning a complaint; or

(d) Any hearing or similar proceeding concerning a complaint.

↪ No informality in any proceeding or in the manner of taking testimony or conducting discovery will invalidate any order, decision, rule or regulation made. Any investigation or discovery conducted pursuant to this subsection is valid if any information requested is not *confidential or* privileged and is reasonably calculated to obtain information that is relevant to the proceeding.

2. Except as otherwise provided in subsection 3, before the filing of a complaint, the staff or any potential complainant may undertake an appropriate investigation of an operator or excavator to determine:

(a) Whether a violation of this chapter or NRS 455.080 to 455.180, inclusive, has occurred;
or

(b) Any fact, circumstance, condition, practice or matter that the staff or potential complainant determines is necessary to assist in the enforcement of this chapter or NRS 455.080 to 455.180, inclusive.

3. Any operator or excavator who is the subject of an investigation or against whom a complaint is filed may:

(a) Before a complaint is filed, petition the Commission for appropriate relief if the operator or excavator believes that the investigation is conducted for an improper purpose or is overbroad or unduly burdensome. If the Commission accepts a petition filed pursuant to this paragraph, the Commission will assign the petition to a presiding officer.

(b) After a complaint is filed, file a motion with the Commission to prohibit any discovery or to restrict or modify the scope of any discovery.

↪ Any petition or motion filed pursuant to this subsection must demonstrate good cause for the requested relief and must not be filed to cause any delay or otherwise burden an investigation or proceeding. The Commission or presiding officer may suspend any investigation or discovery conducted pursuant to this subsection pending the outcome of any action by the Commission or a presiding officer.

4. A motion to limit the number of data requests must be filed with the Commission and served upon all parties of record not later than 45 days after the opening of the complaint docket.

5. Except as otherwise provided in subsection 6, a data request, a notice of deposition and an objection or response to a discovery request must be served upon the appropriate party at the address, telephone number or electronic mail address designated in the complaint, response or petition for leave to intervene and may be sent by United States mail, overnight delivery service,

facsimile or electronic mail. All data requests, notices of depositions, objections and responses to data requests also must be served upon the staff.

6. In lieu of service pursuant to subsection 5, a responding party in a case with a significant volume of discovery responses may deposit those responses in a password-protected website.

7. A notice of deposition must state the date, time and location of the deposition and be served at least 10 working days before the date of the deposition, unless a shorter period is agreed upon by the deposing party and the deponent's counsel. The deposing party may enumerate in the notice any specific documents the deponent must bring to the deposition.

8. A party may object in whole or in part to a discovery request within 5 working days after receiving the request. An objection to a discovery request must be in writing and state the specific grounds for the objection. *If the party is objecting on the basis that the information is confidential or privileged, the party has the burden of proof to demonstrate that the information is entitled to such treatment in the same manner and subject to the same requirements as provided in NAC 703.527 to 703.5282, inclusive. The failure of a party to timely object or comply with these requirements constitutes a waiver of the objection, including, without limitation, for the purposes of a discovery dispute heard by the presiding officer.*

9. Unless otherwise ordered by the Commission or presiding officer or agreed to by the parties, or unless a timely objection has been made, a response to a data request must be served on or otherwise made available to the requesting party not later than 10 working days after receipt of the request by the responding party, except that the responding party will be allowed an additional 5 working days within which to respond if the responding party timely notifies the requesting party of the need for the additional time to respond because the responding party is

experiencing technical or practical difficulties in providing a thorough response within the 10-day period.

10. Except as otherwise provided in subsection 11 or upon order from the Commission or presiding officer, a response to a data request must be submitted in the following quantities and to the following persons:

(a) Two copies must be submitted to the counsel for the staff assigned to the docket, unless directed otherwise by the staff in the data request; and

(b) One copy must be submitted to the requesting party.

11. If a response to a data request is transmitted by electronic mail or deposited in a password-protected website, the responding party shall provide one hard copy of the response to the counsel for the staff assigned to the docket within 2 working days after the due date for the response. The parties may agree to, or the presiding officer may order, an on-site inspection of the response to a data request if the response involves confidential, *privileged* or voluminous material. If an on-site inspection is agreed to by the parties or ordered by the presiding officer, the responding party shall make reasonable efforts to facilitate the inspection.

12. If a dispute arises concerning discovery, the involved parties shall confer in good faith to attempt to resolve the dispute before seeking resolution by the presiding officer. The presiding officer may conduct a telephonic conference to resolve the discovery dispute and shall rule on all motions relating to discovery.

13. The following standards apply to a response to a discovery request to the extent available in the format requested:

(a) Computer files must be provided in an executable file format specified by the staff.

(b) Image files must not be used.

(c) Nominally numeric fields, including, without limitation, account numbers or negative values, must contain numeric data and not literal data.

(d) Spreadsheet computer files which perform calculations must operate so that a change in input causes a change in output.

14. If a party who is responding to a data request believes that the response contains information which is ~~confidential or~~ commercially sensitive, ~~for which~~ constitutes a trade secret ~~is~~ *or is confidential or privileged*, the party may, before providing the response, request that a confidentiality agreement be signed by the party specifying the grounds for the claim of confidential treatment of the information. If a confidentiality agreement is signed, the recipient of the information shall not publicly disclose the information except:

- (a) With the approval of the party who requested the confidentiality agreement; or
- (b) Pursuant to an order of a court of competent jurisdiction or the Commission.

15. A party claiming that a response to a data request ~~is~~ *contains information which is confidential or privileged* must submit as part of the response, in addition to the full unredacted confidential copy to those parties who have signed a confidentiality agreement pursuant to subsection 14, a redacted copy of the response to the data request and ~~is~~

~~(a) Describe with particularity the information to be treated as confidential information;~~
~~(b) Specify the grounds for the claim of confidential treatment of the information; and~~
~~(c) Specify the period during which the information must be retained, which may not exceed 5 years unless a request for an extension is granted by the Commission.]~~ *the same information as is required in subsection 2 of NAC 703.5274 for a request that information not be disclosed made pursuant to that section.*

16. The parties may agree in writing to alternative discovery procedures and time frames. A party may pursue any other form of discovery provided for in the Nevada Rules of Civil Procedure upon agreement with the party to whom the discovery request is directed or with permission from the presiding officer upon good cause shown.

17. If a responding party fails to respond adequately after an order from the Commission or presiding officer concerning discovery, the Commission or presiding officer may, upon the motion of any party of record, enter such order as the Commission or presiding officer deems just and appropriate.

18. A response to a motion for discovery must be filed with the Commission and served upon all parties of record within 5 working days after the motion for discovery is filed with the Commission. A reply to the response, if any, must be filed with the Commission within 5 working days after the response is filed with the Commission.

19. Discovery must be completed at least 15 calendar days before the date set for the hearing unless otherwise ordered by the Commission. Any party to the complaint seeking to have this time shortened or lengthened must do so by a motion to the Commission. The Commission will grant the motion for good cause shown.

20. As used in this section:

(a) “Data request” means a comprehensive vehicle for obtaining discovery and includes, without limitation, interrogatories, requests for admission and requests for production of documents or inspection of property.

(b) “Potential complainant” means the Attorney General, a district attorney, a city attorney, the staff, the governmental agency that issued the permit to conduct an excavation or demolition,

an operator, or a person conducting an excavation or demolition who may bring an action for the enforcement of a civil penalty pursuant to NRS 455.170.