

LCB File No. R104-05

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

(This proposed regulation was previous adopted as T045-05)

PUCN DOCKET NO. 05-3005

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

AUTHORITY: §§1-23, NRS 703.025, 704.1835 and 704.210.

A REGULATION relating to utilities; amending various provisions relating to the Consumer Bill of Rights for gas and electric service; establishing requirements and procedures for certain service and repair visits; making changes relating to applications, deposits, billings and payments for gas and electric service; revising provisions relating to the termination and resumption of gas and electric service; and providing other matters properly relating thereto.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto a new section to read as follows:

1. If a customer is required to be present at a location for a service or repair visit by a utility, the utility shall arrange with the customer, by mutual agreement:

- (a) A 4-hour time span during which the visit will be scheduled; or
- (b) An alternate method of entry to the location.

2. If a service or repair employee of the utility is unable to arrive at the customer's location during the time span scheduled with the customer pursuant to subsection 1, the utility shall use its best efforts to provide telephonic notice to the customer.

Sec. 2. NAC 704.302 is hereby amended to read as follows:

704.302 As used in NAC 704.302 to 704.390, inclusive, and section 1 of this regulation, unless the context otherwise requires, the words and terms defined in NAC 704.303 to 704.317, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NAC 704.303 is hereby amended to read as follows:

704.303 “Customer” means a person:

1. Who receives or applies to receive residential gas or electric service from a utility;
2. In whose name such service is or is to be provided, as evidenced by a signature on the application or contract for such service; or
3. In whose name such service is or is to be provided, as may be established by other demonstrable evidence that the person requested the utility to provide such service in that person’s name.

Sec. 4. NAC 704.321 is hereby amended to read as follows:

704.321 1. Except as otherwise provided in this section, a utility may not enter into any agreement with a customer under terms that are inconsistent with the provisions of NAC 704.302 to 704.390, inclusive, and section 1 of this regulation.

2. Notwithstanding the provisions of NAC 704.302 to 704.390, inclusive, and section 1 of this regulation, a utility may enter into an agreement with a customer under terms that are more favorable to the customer than those provided by NAC 704.302 to 704.390, inclusive, and section 1 of this regulation, if the more favorable terms are consistent with the tariffs of the utility.

Sec. 5. NAC 704.326 is hereby amended to read as follows:

704.326 1. Except as otherwise provided in subsection 2, a customer may make an application for service by mail.

2. A customer who is applying for service from a utility for the first time, or who has not received service from the utility during the preceding 2 years, may be required by the utility to apply for service in person unless this will cause undue hardship.

3. Upon the request of a customer who has applied for service from a utility, the utility shall provide the customer, or any other person or entity designated by the customer in writing, with a range of historical energy use at the location where service is to be provided to the customer. In providing the information to the customer or the customer’s designee, the utility shall take appropriate measures to protect confidential customer information regarding all prior customers at that location.

Sec. 6. NAC 704.328 is hereby amended to read as follows:

704.328 1. Except as otherwise provided in subsections 2 and 3, a deposit for each service provided by a utility must not exceed an amount equal to 150 percent of the estimated average monthly bill of the customer for each such service. Deposits for multiple types of utility service from the same utility must be calculated separately.

2. If an elderly customer establishes credit by making a deposit, the deposit must not exceed 50 percent of the deposit established pursuant to subsection 1.

3. If service to a customer has been terminated, the deposit required by the utility for resumption of service must not exceed an amount equal to 150 percent of the estimated average monthly bill of the customer for service to be resumed.

4. A utility may require:

(a) An elderly customer who has had a termination of service or made four or more payments after the issuance of the next monthly bill within a 12-month period to provide the remaining 50 percent of the deposit.

(b) A customer, who has not been required to provide a deposit, to provide a deposit once the customer's credit has become unsatisfactory.

5. By posting a deposit, the customer agrees that the deposit is a pledge to make future payments to the utility and not payment for future services that are furnished by the utility.

6. A utility may apply a deposit to any amounts outstanding at the time service is terminated or discontinued at the request of the customer.

Sec. 7. NAC 704.330 is hereby amended to read as follows:

704.330 1. A utility may require a customer who is subject to the termination of service and who requests the resumption or continuation of service to provide a deposit in addition to any other deposit made by the customer pursuant to NAC 704.328 only if the initial deposit has been returned to the customer or more than one-half of the deposit has been applied to the account of the customer. In no event may the amount of a deposit held by a utility exceed the amounts specified in NAC 704.328.

2. If a utility requires a customer to provide a deposit pursuant to subsection 1, the deposit may be combined with any arrearage, and the customer may pay the deposit and the arrearage pursuant to an agreement for deferred payment in accordance with NAC 704.341.

Sec. 8. NAC 704.337 is hereby amended to read as follows:

704.337 1. Except as otherwise provided in subsection 4, if a utility is unable, because of circumstances beyond its control, to read the meter of a customer on the date scheduled, it may bill the customer based upon the customer's estimated usage for the billing period.

2. For the purposes of this section, circumstances beyond the control of a utility include:

- (a) Severe weather;
- (b) The presence of an animal on the premises of the customer which prevents an employee of the utility from reading the meter without risk of injury; or
- (c) Any other circumstance which makes it unreasonably difficult to read the meter.

3. A utility shall consider the following factors in calculating a bill based upon estimated usage:

- (a) The usage of the customer during the same month of the preceding year;
- (b) Any change in temperature from the preceding month;
- (c) The usage during the preceding month; and
- (d) Seasonal load factors.

4. A utility which issues three consecutive bills to a customer based upon estimated usage, or five such bills for a customer in the area surrounding Lake Tahoe, shall notify the customer of its right of access to the premises of the customer. Thereafter, any additional and consecutive bill based upon estimated usage may be issued only under extraordinary circumstances.

5. A utility shall:

- (a) Adjust the estimated usage upon the first reading of a meter after an estimated reading;
- (b) Print the word "estimate" plainly on each bill which is based upon estimated usage; and
- (c) Notify customers of its right to issue bills based upon estimated usage.

Sec. 9. NAC 704.338 is hereby amended to read as follows:

704.338 1. Except as otherwise provided in this section, a utility shall offer a program of equalized billing to any customer whose utility service is connected at the time the request is made.

2. If a customer requests to enter into the program of equalized billing and the customer has an arrearage when the request is made, the customer may not enter into the program unless the customer:
 - (a) Pays at least 50 percent of the arrearage upon entering into the program; and
 - (b) Agrees to pay, in amounts that are apportioned over the first year of participation in the program, the remaining arrearage.
3. If a customer enters into the program of equalized billing, the equalized billing must be calculated by dividing the total amount of estimated bills for 1 year by the number of monthly payments for that year. The utility shall, at least once each year, adjust the monthly payments to conform to the actual bills.
4. A utility may not adjust the amount of an equalized bill because of a change in rates before the rates become effective.
5. If a customer fails to make two or more consecutive timely payments while participating in the program of equalized billing, the utility may, in addition to any other rights and remedies available to the utility, remove the customer from the program. If the utility removes the customer from the program, the customer may not enter into the program again without the approval of the utility.

Sec. 10. NAC 704.339 is hereby amended to read as follows:

704.339 1A utility shall deliver a bill to customer:

- (a) By depositing the bill with the United States Postal Service, properly addressed and postage prepaid, for delivery by first-class mail to the billing address of the customer;
- (b) By another means of delivery of the bill to the billing address of the customer; or
- (c) If requested by the customer and within the capability of the utility, by sending an electronic bill via the Internet to the electronic address of the customer. The electronic bill must contain the same content and be presented in the same or a similar format as a bill delivered to the customer pursuant to paragraph (a).

2. A bill for service issued by a utility is due:

- (a) Upon deposit of the bill with the United States Postal Service, properly addressed and postage prepaid, for delivery by first-class mail to the billing address of the customer;

(b) In the case of delivery by another means, upon delivery of the bill to the billing address of the customer; or

(c) In the case of delivery via the Internet, upon sending the electronic bill via the Internet to the electronic address of the customer.

3. A customer may pay the bill:

(a) By depositing payment in the form of a check or money order with the United States Postal Service, properly addressed and postage prepaid, for delivery by first-class mail to the appropriate address of the utility;

(b) By making payment at the business office of the utility using cash, a check, a money order, a credit card, a debit card, an electronic check or, if authorized by the utility, some other form of electronic fund transfer;

(c) By making payment to any person authorized by the utility to accept payment using cash, a check, a money order, a credit card, a debit card, an electronic check or, if authorized by the utility, some other form of electronic fund transfer; or

(d) By making payment through a bank-by-phone system or, if authorized by the utility, by making payment through a payment terminal, an automatic withdrawal system or another system that allows for electronic fund transfers.

4. A utility shall authorize at least one system of payment that allows customers to make payments to the utility via the Internet.

5. The past due date for a bill may not be earlier than 15 days after the date that the bill is due pursuant to subsection 2.

6. If a utility has the capability to allow a customer to choose the ~~[past due]~~ *payment* date for each billing cycle, the utility shall:

(a) On an annual basis, notify customers that they ~~[have such a choice]~~ *can choose a payment date once within a 12 month period*; and

(b) Upon the request of a customer, allow the customer to make such a choice.

7. If a utility does not have the capability described in subsection 6, the utility shall, upon the request of a customer and to the extent practicable, work with the customer to establish by mutual agreement the ~~[past due]~~ *payment* date for each billing cycle.

8. If the last day for payment before the past due date falls on a Sunday, legal holiday, or any other day on which the office of a utility used for the payment of bills is closed, the last day for

payment is the next business day. Except as otherwise provided in subsection 9, payment of a bill by first-class mail is timely if the payment is received not more than 4 days after the past due date.

9. Any arrearage contained in a bill for service is past due and should be paid at the business office of the utility.

10. A utility may charge a customer a fee, as set forth in its tariff, for:

(a) The return of an unpaid check.

(b) The late payment of a bill.

(c) The use of a credit card to make a payment to the utility. The utility shall not charge the customer a fee for the use of a credit card to make a payment to the utility. The utility shall not charge the customer a fee for the use of a credit card to make a payment to the utility or enter into an agreement with a third-party credit card service which charges the customer such a fee, unless the fee has been reviewed and approved by the Commission.

Sec. 11. NAC 704.341 is hereby amended to read as follows:

704.341 1. Except as otherwise provided in this section and NAC 704.338, a utility shall provide a program for the deferred payment of a delinquent bill for any customer who requests the program and agrees in writing to pay:

(a) The arrearage within 90 days after the execution of the agreement, in four equal payments, with the first payment to be made upon the execution of the agreement; and

(b) All future bills when due.

.. The 90-day period otherwise provided for payment of the arrearage may be extended at the discretion of the utility.

2. If a customer who enters into an agreement for the deferred payment of an arrearage is required to pay a deposit as a condition of continuing or resuming service and:

(a) The customer's service has not been terminated because of the failure to comply with an existing agreement for deferred payment; or

(b) The customer is entering into the agreement pursuant to subsection 3,

.. the deposit and the arrearage must be included in the agreement and must be paid within 120 days, in four equal payments, with the first payment to be made upon the execution of the agreement.

3. If a governmental agency or another entity that provides energy assistance to lower-income customers pledges or pays money on behalf of a customer who has an arrearage, the utility shall allow the customer to enter into an agreement for the deferred payment of the remaining arrearage and any deposit owed by the customer, regardless of whether the customer has entered into any other prior agreements for deferred payment pursuant to this section.
4. Except as otherwise provided in subsection 3, a customer may not enter into an agreement for deferred payment pursuant to this section more than once during any 11-month period, unless the utility agrees otherwise.
5. The utility may terminate service to a customer who enters into an agreement for deferred payment pursuant to this section for any failure by the customer to make payment as provided by the agreement, if the utility sends written notice of its intended action to the customer at least 48 hours before it terminates service.
6. Each agreement for deferred payment entered into pursuant to this section must:
 - (a) Specify the date on which each installment is due; and
 - (b) Contain a statement, in boldface type, of the right of the utility to terminate service to the customer , upon 48-hours' notice, for any failure by the customer to make payment as provided by the agreement.

Sec. 12. NAC 704.342 is hereby amended to read as follows:

- 704.342 1. A utility shall provide a program for the payment of bills for customers who have difficulty paying their bills because of financial hardship.
2. A utility shall coordinate with governmental agencies and other entities that provide energy assistance to lower-income customers and with governmental agencies and other entities that provide services for weatherization and energy efficiency to lower-income customers to enable such agencies and entities to administer efficiently and effectively their assistance and services to lower-income customers.
 3. A utility shall disclose to the agencies and entities described in subsection 2 information concerning the energy use of a customer, if the customer signs a release authorizing the utility to disclose that information.

Sec. 13. NAC 704.350 is hereby amended to read as follows:

704.350 A utility may terminate electric or gas service without prior notice only:

1. If an unsafe or hazardous condition related to electric or gas service is found to exist on the customer's premises;
2. If the use of electric or gas service on the customer's premises is found to be detrimental or damaging to the facilities or services of the utility or its customers;
3. Upon the order of any court or the Commission;
4. If the acts of the customer or the conditions upon the customer's premises are such as to indicate to the utility that the customer intends to defraud it;
5. If the utility has tried diligently to meet the requirements for notice set forth in NAC 704.360 and 704.365 but has not been able to give such a notice;
6. If an event occurs which could not have been reasonably anticipated or controlled and which requires the termination of service;
7. If the location where service is provided has been abandoned;
8. If the customer obtained service without the specific credit authorization of the utility; or 9. If the termination without prior notice is otherwise authorized pursuant to NAC 704.302 to 704.390, inclusive, and section 1 of this regulation.

Sec. 14. NAC 704.355 is hereby amended to read as follows:

704.355 1. Except as otherwise provided in NAC 704.302 to 704.390, inclusive, and section 1 of this regulation, a utility may terminate electric or gas service to a customer without the consent of the customer, after adequate notice has been given pursuant to NAC 704.360 and 704.365 , for any of the following reasons:

- (a) Nonpayment of a delinquent bill.
 - (b) Failure to make a security deposit, an installment payment on a delinquent bill, or a security deposit, or a guarantee, when required.
 - (c) Violation of any rule of the utility.
2. Except as otherwise provided in NAC 704.302 to 704.390, inclusive, and section 1 of this regulation, a utility may terminate service:
- (a) At the new location of a customer for the failure to pay a delinquent bill for residential service which the customer received at a previous location; or

(b) If a customer receives residential service at more than one location, at any of the locations for the failure to pay a delinquent bill at any location.

Sec. 15. NAC 704.360 is hereby amended to read as follows:

704.360 1. If a utility has a reason for the termination of service under NAC 704.355 and intends to terminate service, the utility shall in every case send a written notice of its intended action to the customer at least 10 days before it carries out the action, except that if the customer has failed to comply with the terms of an agreement for deferred payment, the utility may terminate service upon 48-hours' notice as provided in NAC 704.341.

2. If the utility receives no response to the initial notice, it shall send a second notice to the customer using:

(a) A method required by NAC 704.390, if the customer is subject to the provisions of that section; or

(b) A method which ensures that the notice is delivered to the customer or the customer's premises at least 48 hours before it terminates service.

3. The initial notice must be served upon the customer:

(a) By personal service;

(b) By depositing the notice with the United States Postal Service, properly addressed and postage prepaid, for delivery by first-class mail to the customer's last known mailing address; or

(c) If requested by the customer and within the capability of the utility, by electronic notice sent via the Internet to the most recent electronic address provided to the utility by the customer.

4. Service of the initial notice shall be deemed complete on the date of mailing or that the notice is:

(a) Delivered by personal service to the customer;

(b) Deposited with the United States Postal Service, properly addressed and postage prepaid, for delivery by first-class mail to the customer's last known mailing address; or

(c) Sent via the Internet to the most recent electronic address provided to the utility by the customer.

5. Except as otherwise provided in NAC 704.390, a second notice may be communicated to the customer:

(a) In person;

- (b) By depositing the notice with the United States Postal Service, properly addressed and postage prepaid, for delivery by first-class mail to the customer's last known mailing address;
- (c) If requested by the customer and within the capability of the utility, by electronic notice sent via the Internet to the most recent electronic address provided to the utility by the customer;
- (d) By telephone if the person receiving the communication is 18 years of age or older and is a resident at the address where service is being provided; or
- (e) By posting the notice on the door of that residence if no one is at home.

.. If a utility intends to change the method it normally uses to communicate a second notice, it shall send a written notice to its customers specifying the new method and the date on which it will begin using that method.

6. The initial notice and any second notice of an intended termination of service must contain the following information in plain language, with the information listed in paragraphs (i), (j) and (l) presented in a larger type size than the balance of the notice:

- (a) An identification of the account affected by the intended termination.
- (b) The date on or after which the intended termination will occur.
- (c) The address of the location where service will be terminated.
- (d) The reason for the intended termination, including, if the intended termination is for nonpayment, a statement designating the bill as one for actual or estimated use and specifying the total amount owed, the period over which that amount was incurred, and the minimum payment required to avoid termination.
- (e) The procedures which are available to dispute or appeal from the intended termination, specifying the address and telephone number of the utility's office which is responsible for handling complaints or inquiries.
- (f) A statement that the utility will promptly investigate any complaint or dispute and give the customer its written decision on the matter.
- (g) A statement that if the customer wishes to dispute any fact or interpretation of a regulation relied upon by the utility in its decision to terminate service, the customer must communicate with the Division. The statement must include the mailing address, telephone number, and toll-free telephone number of the Division.

(h) A statement that service will not be terminated before a resolution of the dispute if the customer pays the questioned portion of the bill at the time the dispute arises and pays all subsequent bills.

(i) An explanation of any arrangements for payment which the utility offers to customers who have difficulty in paying their bills.

(j) A list of the names, addresses, and telephone numbers of at least two governmental agencies or other organizations which have notified the utility that they will assist customers in paying their utility bills.

(k) An explanation of the restrictions on the termination as set forth in NAC 704.370.

(l) A statement that a customer should notify the utility immediately if any member of the customer's household requires the continuing use of electric or gas appliances to maintain that member's essential health.

(m) An explanation of the utility's fee schedule and procedures for reconnecting service.

7. If a utility provides a customer with an initial notice or a second notice of an intended termination of service and the customer or another adult resident of the customer's household communicates orally with the utility concerning the notice, the utility shall explain to the customer or other adult resident each item of information which is included in the notice pursuant to subsection 6.

8. If a utility has a reason for the termination of service and intends to terminate service to a mobile home park or a multiunit residential complex, the utility shall use its best efforts to notify the occupants of each family dwelling unit located within the park or complex of the utility's intended action. The utility shall use its best efforts to notify the occupants by posting on the door of each such unit a written notice which states:

(a) The reason for the termination of service;

(b) The deadline for making any delinquent payments or for taking any corrective action that is necessary to avoid the termination of service; and

(c) The date scheduled for the termination of service in the event that any delinquent payments are not made or corrective action is not taken.

→ The utility shall provide the notice required by this subsection to the occupants of a multiunit residential complex at the same time that the utility provides notice to the customer of record for the complex.

Sec. 16. NAC 704.365 is hereby amended to read as follows:

704.365 1. A utility shall:

(a) Give written notice to each customer who is elderly or handicapped that the customer may designate a third person to receive notification of the pending termination of service. The utility shall give the written notice:

(1) At the time the customer applies for service; or

(2) If the customer applies for service by telephone, at the time the customer receives the first bill for service.

(b) Upon the written request of a customer, notify a third person designated by the customer of an intended termination of service by sending the third person a duplicate notice.

The third person need not pay the bill.

(c) Make a diligent effort to notify the designated third person, but the utility does not incur any liability for a failure to notify the third person.

2. As used in this section, “third person” includes any guarantor of the customer making the designation and any other person or public agency, other than the customer or the utility.

Sec. 17. NAC 704.370 is hereby amended to read as follows:

704.370 1. A utility shall postpone the termination of service to a customer for 30 days after the day on which it receives both of the following:

(a) A statement from a licensed physician or public health official certifying that any termination of service would be especially dangerous to the health of the customer or another person who is a permanent resident of the premises where service is being provided and would constitute an emergency affecting the health of the person. The physician or health official may consider the feebleness, advanced age, physical disability or handicap, mental incapacity, serious illness, or other infirmity of the person affected. Except as otherwise provided in this paragraph, the statement must be in writing and include:

(1) The address where service is provided;

(2) The name of the person whose health would be especially endangered;

(3) A clear description of the nature of the emergency; and

(4) The name, title, and signature of the physician or official certifying the emergency.

.. The statement may be made by telephone if a written statement is sent for confirmation to the utility within 5 days after the oral statement is made.

(b) A statement signed by the customer:

(1) That the customer is unable to pay for service in accordance with the requirements of the utility's billing; or

(2) That the customer is able to pay for service only in installments. The utility shall allow an installment period of up to 90 days for the customer to pay the bills of the customer.

2. The postponement may be extended for an additional 30 days if the utility receives a renewed medical certificate before the expiration of the original period of postponement.

3. If a utility again intends to terminate service after a customer has obtained a postponement pursuant to subsection 1, the utility shall give written notice of its intended action:

(a) To the Division;

(b) To the customer and to any other person who is required to receive notice pursuant to NAC 704.360 or 704.365; and

(c) To governmental agencies or other organizations which have notified the utility that they will assist customers in paying their utility bills.

4. Before the period of postponement expires, the customer must arrange with the utility to pay the bills of the customer in accordance with its applicable rules.

Sec. 18. NAC 704.372 is hereby amended to read as follows:

704.372 1. If the service of a customer is being terminated for nonpayment of a delinquent bill or any installment due on such a bill, the utility may postpone the termination, regardless of whether the customer is qualified to make deferred payments pursuant to NAC 704.338 or 704.341, if the utility determines that the customer is able to pay the amount owed and the customer agrees to a plan for payment.

2. In determining whether a customer is able to pay the amount owed, the utility shall consider:

(a) The amount owed;

(b) The length of time the bill or installment is past due;

(c) The date the account was established;

(d) The history of payment maintained by the customer with the utility;

(e) The credit history of the customer;

- (f) The period for payment;
- (g) Any extraordinary circumstances of the case; and
- (h) Any information presented to the utility by the customer.

Sec. 19. NAC 704.375 is hereby amended to read as follows:

704.375 1. Except as otherwise provided in subsections 1 and 2 of NAC 704.350, a utility may not terminate service to a customer on a weekend, on a holiday or on the day before a weekend or a holiday.

2. Except as otherwise provided in subsections 1 and 2 of NAC 704.350, a utility may not terminate service to a customer if the utility has knowledge that the customer or a permanent resident of the customer's household:

- (a) Is confined to the location where service is provided;
- (b) Is on a life support device which, to operate effectively at that location, requires service to be provided by the utility; and
- (c) Is likely to die without the aid of the life support device if the utility terminates service.

3. A utility may not terminate service to a customer because of nonpayment if the outstanding amount owed by the customer is \$50 or less *and the arrearage has been due less than 60 days.*

4. If a utility intends to terminate service to a customer or a multiunit residential complex because of nonpayment, the utility shall postpone the termination if the termination would occur during a forecasted period of extreme temperature for the local geographical area which encompasses the location where service is provided and which typically experiences similar temperature conditions as the location where service is provided.

5. As used in this section:

(a) ~~["Forecasted period of extreme temperature" means any period of 24 hours for which the National Weather Service has issued a forecast predicting that, at some point during the period of 24 hours, the outside temperature will be:~~

~~(1) One hundred five degrees Fahrenheit or higher; or~~

~~(2) Fifteen degrees Fahrenheit or lower.~~

(b)] For vulnerable customers who self identify and for permanent residents of a customer's household as defined in section (5) below, a moratorium on service terminations shall apply for any period of 24 hours for which the National Weather Service has issued a forecast for

that area predicting that, at some point during the period of 24 hours, the outside temperature will be:

(1) 103 degrees Fahrenheit or higher for vulnerable customers living in Nevada Power Company's or Southwest Gas Corporation's southern Nevada service territory; 100 degrees Fahrenheit or higher for a customer or a permanent resident of the customer's household who meets (5) (ii), (iii) or (iv) below and who lives in a mobile home constructed prior to 2000 and

(2) 30 degrees Fahrenheit or lower for vulnerable customers living in Nevada Power Company's or Southwest Gas Corporation's southern Nevada service territory.

(3) 95 degrees Fahrenheit or higher for vulnerable customers living in Sierra Pacific Power Company's or Southwest Gas Corporation's northern Nevada service territory or

(4) 20 degrees Fahrenheit or lower for vulnerable customers living in Sierra Pacific Power Company's or Southwest Gas Corporation's northern Nevada service territory.

(5) For purpose of this section, a vulnerable customer is defined as a customer or a permanent resident of the customer's household who:

(i) is or has been a LIHEA or UEC recipient during the last 13 months; or

(ii) is disabled at any age; or

(iii) is over the age of 62; or

(iv) is a minor child who is disabled or diagnosed with a documented medical

condition which would be adversely affected by temperature extremes.

(b)The general customer temperature moratorium related to high temperature does not apply to the gas utility unless natural gas is essential for air conditioning.

..For all other customers, a moratorium on service terminations shall apply for any period of 24 hours for which the National Weather Service has issued a forecast for that area predicting that, at some point during the period of 24 hours, the outside temperature will be:

(1) 110 degrees Fahrenheit or higher for customers living in Nevada Power Company's service territory or

(2) 25 degrees Fahrenheit or lower for customers living in Nevada Power Company's or Southwest Gas Corporation's southern Nevada service territory.

(3) 100 degrees Fahrenheit or higher for customers living in Sierra Pacific Power Company's service territory or

(4) 15 degrees Fahrenheit or lower for customers living in Sierra Pacific Power Company's or Southwest Gas Corporation's northern Nevada service territory.

(c) "National Weather Service" means the National Weather Service of the National Oceanic and Atmospheric Administration of the United States Department of Commerce.

Sec. 20. NAC 704.380 is hereby amended to read as follows:

704.380 1. A utility may not terminate residential service to a customer because of the failure to pay a delinquent bill for a nonresidential class of service.

2. A utility may not terminate service to a customer because of delinquent bills that were incurred by the previous occupant of the location where service is provided.

Sec. 21. NAC 704.383 is hereby amended to read as follows:

704.383 1. A utility shall resume service to a customer:

(a) If the customer has complied with the requirements of the utility set forth in its tariff;

(b) Upon the order of any court of competent jurisdiction or the Commission; or

(c) If the statement conforms to the requirements of that paragraph, immediately upon its receipt of the statement described in paragraph (a) of subsection 1 of NAC 704.370.

2. Except as otherwise provided in subsection 3, if a utility terminates service to a customer because of nonpayment and the customer or another person or entity on behalf of the customer subsequently pays the utility *at the utility's office* in an amount that is sufficient to resume service, the utility shall resume service to the customer:

(a) ~~[On the same day that the payment is received by the utility, if the payment is received by the utility on or before 10 a.m.; or~~

~~(b) Within 24 hours after the time when the payment is received by the utility, if the payment is received by the utility after 10 a.m.]~~ *By the end of the next business day if the payment is received by the utility at its office.*

(b) If payment is received by the utility at its office on Friday, service will be restored by Saturday.

(c) If a payment is made that allows the utility to restore the customer's service during a period defined by NAC 704.375, the utility will use its best efforts to restore service the same day the payment is made.

(d) A credit card payment will be accepted in lieu of payment at the utility's office.

3. If a utility terminates service to a multiunit residential complex because of nonpayment and the customer of record or another person or entity on behalf of the customer of record subsequently pays the utility in an amount that is sufficient to resume service, the utility shall resume service to each unit within the multiunit residential complex on a priority basis, subject to emergency situations, including, but not limited to, emergency situations affecting the health of a person as described in paragraph (a) of subsection 1 of NAC 704.370.

4. A utility may charge a fee, as set forth in its tariff, to resume service to a customer.

Sec. 22. NAC 704.385 is hereby amended to read as follows:

704.385 A utility shall give written notice to:

1. Each new customer at the time the customer applies for service; and
2. Each customer at least once annually by means of a notice enclosed with a bill,
.. that special assistance is available to elderly persons and to handicapped persons who are unable to pay their bills on a timely basis and that such a person must communicate with the utility if the person wishes to benefit from that special assistance.

Sec. 23. NAC 704.390 is hereby amended to read as follows:

704.390 1. A utility may not terminate service to a customer who is elderly or handicapped, or whose household includes an elderly or handicapped person, unless the utility has notified the customer or another adult resident of the customer's household in person or by telephone at the address where service is provided at least 48 hours before the date upon which the termination would occur. *(See NAC 704.365(1)(b).)*

2. When providing the notice required by subsection 1, the utility shall explain to the customer or other adult resident each item of information which subsection 6 of NAC 704.360 requires to be included in a written notice of intent to terminate service.

3. In addition to the notice required by subsection 1, the utility shall notify governmental agencies ~~for other organizations~~ which have notified the utility that they will assist customers in paying their utility bills.

R104-05 CONTINUED...

AUTHORITY: §§1-15, NRS 703.025, 704.1835 and 704.210.

A REGULATION relating to utilities; adopting provisions relating to the Consumer Bill of Rights for water service; establishing requirements and procedures relating to the termination of water service; and providing other matters properly relating thereto.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 15, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Customer” means a person:*

- 1. Who receives or applies to receive residential water service from a utility or landlord;*
- 2. In whose name such service is or is to be provided, as evidenced by a signature on the application or contract for such service; or*
- 3. In whose name such service is or is to be provided, as may be established by other demonstrable evidence that the person requested the utility or landlord to provide such service in that person’s name.*

Sec. 4. *“Division” means the Division of Consumer Complaint Resolution of the Commission.*

Sec. 5. *“Especially dangerous to health” means a condition or event likely to cause serious impairment to the health of a person who appears to be unable, without assistance, to manage his own resources, carry out the activities of daily living, or protect himself from neglect or a hazardous situation.*

Sec. 6. *“Landlord” means a landlord of a mobile home park:*

- 1. Who is subject, in whole or in part, to the provisions of chapter 118B of NRS; and*

2. Who pays a provider for water service and who distributes or resells the water to one or more residential tenants.

Sec. 7. “Termination of service” means the intentional cessation of service by a utility or landlord to a customer which has not been requested by the customer and, in the case of a utility, which occurs pursuant to the tariffs of the utility.

Sec. 8. “Utility” means a public utility, as defined in NRS 704.020, that furnishes residential water service to customers.

Sec. 9. 1. Except as otherwise provided in this section, a utility or landlord may not enter into any agreement with a customer under terms that are inconsistent with the provisions of sections 2 to 15, inclusive, of this regulation.

2. Notwithstanding the provisions of sections 2 to 15, inclusive, of this regulation:

(a) A utility may enter into an agreement with a customer under terms that are more favorable to the customer than those provided by sections 2 to 15, inclusive, of this regulation, if the more favorable terms are consistent with the tariffs of the utility.

(b) A landlord may enter into an agreement with a customer under terms that are more favorable to the customer than those provided by sections 2 to 15, inclusive, of this regulation.

Sec. 10. A utility or landlord may terminate water service without prior notice only:

1. If an unsafe or hazardous condition related to water service is found to exist on the customer’s premises;

2. If the use of water service on the customer’s premises is found to be detrimental or damaging to the facilities or services of the utility or the landlord, or to other customers;

3. Upon the order of any court or the Commission;

4. If the acts of the customer or the conditions upon the customer’s premises are such as to indicate to the utility or landlord that the customer intends to defraud it;

5. If the utility or landlord has tried diligently to meet the requirements for notice set forth in section 12 of this regulation but has not been able to give such notice;

- 6. If an event occurs which could not have been reasonably anticipated or controlled and which requires the termination of service;*
- 7. If the location where service is provided has been abandoned;*
- 8. If the customer obtained service without the specific credit authorization of the utility or landlord; or*
- 9. If the termination without prior notice is otherwise authorized pursuant to sections 2 to 15, inclusive, of this regulation.*

Sec. 11. *Except as otherwise provided in sections 2 to 15, inclusive, of this regulation, a utility or landlord may terminate water service to a customer without the consent of the customer, after adequate notice has been given pursuant to section 12 of this regulation, for any of the following reasons:*

- 1. Nonpayment of a delinquent bill for water service.*
- 2. Failure to make a security deposit for water service, an installment payment on a delinquent bill or security deposit for water service, or a guarantee, when required.*
- 3. Negligent or wasteful use of water on the premises of the customer.*
- 4. Violation of any rule of the utility or landlord relating to water service.*

Sec. 12. 1. *Except as otherwise provided in section 13 of this regulation, if a utility or landlord has a reason for the termination of service pursuant to section 11 of this regulation and intends to terminate service, the utility or landlord shall in every case send a written notice of its intended action to the customer at least 10 days before it carries out the action.*

2. If the utility or landlord receives no response to the initial notice, it shall send a second notice to the customer using a method which ensures that the notice is delivered to the customer or the customer's premises at least 48 hours before it terminates service.

3. The initial notice must be served upon the customer:

(a) By personal service; or

(b) By depositing the notice with the United States Postal Service, properly addressed and postage prepaid, for delivery by first-class mail to the customer's last known mailing address.

4. Service of the initial notice shall be deemed complete on the date that the notice is:

(a) Delivered by personal service to the customer; or

(b) Deposited with the United States Postal Service, properly addressed and postage prepaid, for delivery by first-class mail to the customer's last known mailing address.

5. The initial notice and any second notice of an intended termination of service must contain the following information in plain language, with the information listed in paragraphs (i) and (j) presented in a larger type size than the balance of the notice:

(a) An identification of the account affected by the intended termination.

(b) The date on which the intended termination will occur.

(c) The address of the location where service will be terminated.

(d) The reason for the intended termination, including, if the intended termination is for nonpayment, a statement designating the bill as one for actual or estimated use and specifying the total amount owed, the period over which that amount was incurred, and the minimum payment required to avoid termination.

(e) The procedures which are available to dispute or appeal from the intended termination, specifying the address and telephone number of the utility's or landlord's office which is responsible for handling complaints or inquiries.

(f) A statement that the utility or landlord will promptly investigate any complaint or dispute and give the customer its written decision on the matter.

(g) A statement that if the customer wishes to dispute any fact or interpretation of a regulation relied upon by the utility or landlord in its decision to terminate service, the customer must communicate with the Division. The statement must include the mailing address, telephone number, and toll-free telephone number of the Division.

(h) A statement that service will not be terminated before a resolution of the dispute if the customer pays the questioned portion of the bill at the time the dispute arises and pays all subsequent bills.

(i) An explanation of any arrangements for payment which the utility or landlord offers to customers who have difficulty in paying their bills, including the program of deferred payments described in section 13 of this regulation.

(j) If the location where service will be terminated is in a county whose population is 50,000 or more:

(1) The appropriate addresses and telephone numbers of the Welfare Division of the Department of Human Resources; and

(2) A list of the names, addresses and telephone numbers of other organizations which have notified the utility that they will help customers who are unable to pay their bills.

(k) An explanation of the restrictions on the termination as set forth in section 15 of this regulation.

(l) An explanation of the utility's or landlord's fee schedule and procedures for reconnecting service.

6. If a utility has a reason for the termination of service and intends to terminate service to a mobile home park or a multiunit residential complex, the utility shall use its best efforts to notify the occupants of each family dwelling unit located within the park or complex of the utility's intended action. The utility shall use its best efforts to notify the occupants by posting on the door of each such unit a written notice which states:

(a) The reason for the termination of service;

(b) The deadline for making any delinquent payments or for taking any corrective action that is necessary to avoid the termination of service; and

(c) The date scheduled for the termination of service in the event that any delinquent payments are not made or corrective action is not taken.

The utility shall provide the notice required by this subsection to the occupants of a multiunit residential complex at the same time that the utility provides notice to the customer of record for the complex.

Sec. 13. 1. *Except as otherwise provided in this section, if a utility or landlord intends to terminate service to a customer because of nonpayment, the utility or landlord shall first offer the customer a program of deferred payments.*

2. A program of deferred payments must require the customer to pay:

(a) The arrearage within 60 days after the execution of the agreement, in three equal payments, with the first payment to be made upon the execution of the agreement; and

(b) All future bills when due.

3. Except as otherwise provided in subsection 4, the utility or landlord shall offer the customer a program of deferred payments in each notice of intent to terminate service because of nonpayment which is provided to the customer pursuant to section 12 of this regulation.

4. The utility or landlord may terminate service to a customer who is participating in a program of deferred payments pursuant to this section for any failure by the customer to make payment as required by the program, if the utility or landlord sends written notice of its intended action to the customer at least 24 hours before it terminates service.

Sec. 14. 1. *If a utility or landlord intends to terminate service to a customer because of nonpayment, the utility or landlord shall postpone the termination if the termination would occur during a forecasted period of extreme heat for the local geographical area which encompasses the location where service is provided and which typically experiences similar temperature conditions as the location where service is provided.*

2. As used in this section:

(a) “Forecasted period of extreme heat” means any period of 24 hours for which the National Weather Service has issued a forecast predicting that, at some point during the period of 24 hours, the outside temperature will be ~~105~~ 110 degrees Fahrenheit or higher.

(b) “National Weather Service” means the National Weather Service of the National Oceanic and Atmospheric Administration of the United States Department of Commerce.

Sec. 15. 1. *If a utility or landlord intends to terminate service to a customer because of nonpayment, the utility or landlord shall postpone the termination for 30 days after the day on which it receives both of the following:*

(a) A statement from a licensed physician or public health official certifying that any termination of service would be especially dangerous to the health of the customer or another person who is a permanent resident of the premises where service is being provided and would constitute an emergency affecting the health of the person. The physician or health official may consider the febleness, advanced age, physical disability or handicap, mental incapacity, serious illness, or other infirmity of the person affected and may also consider the necessity of cooling to maintain the health of the person affected, such as the necessity of cooling provided by an evaporative cooler or similar device. Except as otherwise provided in this paragraph, the statement must be in writing and include:

(1) The address where service is provided;

(2) The name of the person whose health would be especially endangered;

- (3) A clear description of the nature of the emergency; and*
- (4) The name, title, and signature of the physician or official certifying the emergency.*

The statement may be made by telephone if a written statement is sent for confirmation to the utility or landlord within 5 days after the oral statement is made.

(b) A statement signed by the customer:

(1) That he is unable to pay for service in accordance with the requirements of the utility's or landlord's billing; or

(2) That he is able to pay for service only in installments. The utility or landlord shall allow an installment plan of up to 60 days for the customer to pay the bills of the customer. The installment plan must consist of three equal payments with the first payment to be made when the customer presents the signed statement to the utility or landlord.

2. The postponement may be extended for an additional 30 days if the utility or landlord receives a renewed medical certificate before the expiration of the original period of postponement.

3. If a utility or landlord again intends to terminate service after a customer has obtained a postponement pursuant to subsection 1, the utility or landlord shall give written notice of its intended action:

(a) To the Division;

(b) To the customer; and

(c) To each governmental agency or other organization which has notified the utility or landlord that it will help customers who are unable to pay their bills.

4. Before the period of postponement expires, the customer must arrange with the utility or landlord to pay the bills of the customer in accordance with its applicable rules.