

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

LCB File No. R048-08

Effective September 18, 2008

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

AUTHORITY: §1, NRS 703.025, 704.210, 704.68865 and 704.68869.

A REGULATION relating to telecommunications; providing for an application for a small-scale provider of last resort to request regulation as a competitive supplier; 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. Pursuant to NRS 704.68869, a small-scale provider of last resort may file with the Commission an application to be regulated as a competitive supplier.*
- 2. The application must include, without limitation:*
 - (a) A map of the service area of the small-scale provider of last resort which identifies all exchanges in the service area;*
 - (b) For each type of retail service currently provided in the service area by the small-scale provider of last resort:*
 - (1) The price of the service;*
 - (2) The type of network used in providing the service; and*
 - (3) For any service that has had its rate changed pursuant to NRS 704.110 within 3 years before the filing of the application, the docket number of the proceeding which changed the rate;*

(c) For switched and special access service, the number of units for the service in each exchange provided by the small-scale provider of last resort to the alternative providers that provide a service in the service area of the small-scale provider of last resort;

(d) For each alternative provider that provides a service in the service area of the small-scale provider of last resort:

(1) If known to the small-scale provider of last resort or accessible from a reasonably available public source:

(I) The name of the alternative provider;

(II) The type of technology used by the alternative provider;

(III) The type and price of each service provided by the alternative provider;

(IV) The approximate percentage of households and businesses in each exchange that have services available from the alternative provider; and

(V) Data comparing the alternative provider and the small-scale provider of last resort as regards total resources of the company, including, without limitation, total financial resources, managerial and employee resources, number of customers in the United States and areas in the United States where services are provided;

(2) For any information described in subparagraph (1) which is not known to the small-scale provider of last resort or accessible from a reasonably available public source, an explanation of why that information is not included in the application; and

(3) A list of the number of units of any service, equipment or facility leased or purchased by the alternative provider from the small-scale provider of last resort, including, without limitation, any:

(I) Unbundled network element;

(II) Resold service;

(III) Special access service; and

(IV) Operational service;

(e) A copy of each FCC Form 477 provided to the Federal Communications Commission within the 3 years preceding the filing of the application;

(f) Evidence of the number of customers lost to an alternative provider by the small-scale provider of last resort in the service area of the small-scale provider of last resort, including, without limitation, a general statement or trend analysis regarding:

(1) The market share held by an alternative provider, if available, or an explanation of why such information is not available; and

(2) The number of customer telephone numbers that have been ported to an alternative provider;

(g) Evidence that the service area of the small-scale provider of last resort will remain open to competition for alternative providers, including, without limitation:

(1) Evidence of any legal or physical barriers to entry in the service area;

(2) If applicable, information demonstrating that the small-scale provider of last resort has satisfied the duties and obligations imposed by 47 U.S.C. § 251;

(3) If applicable, a written plan providing how, if the application is granted, alternative providers will be able to receive, on a nondiscriminatory basis, the services required to be made available pursuant to 47 U.S.C. § 251 or such other service as listed in subparagraph (3) of paragraph (d); and

(4) Information regarding any complaint or other legal action made against the small-scale provider of last resort, within 3 years before the filing of the application, in regards to unlawful discrimination or an anticompetitive act or practice; and

(h) Any other evidence that the small-scale provider of last resort believes will demonstrate that substantial competition exists in its service area.

3. The small-scale provider of last resort that files the application bears the burden of proving that granting the application will serve the public interest.

4. Within 180 days after an application is filed pursuant to this section, the Commission will act upon that application.

5. As used in this section, “alternative provider” means an entity that provides telecommunication service or telephone service.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R048-08**

The Public Utilities Commission of Nevada adopted regulations assigned LCB File No. R048-08 which pertain to chapter 704 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

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

Copies of the proposed regulations, notice of intent to act upon the regulation and notice of workshop and hearing were sent by U.S. mail to persons who were known to have an interest in the subject of telecommunications as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Public Utilities Commission of Nevada (“PUCN”), <http://pucweb1.state.nv.us/PUCN/>, mailed to all county libraries in Nevada, published in the following newspapers:

Elko Daily Free Press
Las Vegas Review Journal
Nevada Appeal
Reno Gazette Journal
Tonopah Times-Bonanza

and posted at the following locations:

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

Public Utilities Commission
101 Convention Center Drive, Suite 250
Las Vegas, Nevada 89109

First Judicial District Court
885 East Musser Street
Carson City, Nevada 89701

Second Judicial District Court
75 Court Street
Reno, Nevada 89501

Eighth Judicial District Court
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155

The Phase IV regulations establish procedures for an application of a small-scale provider of last resort to request to be regulated as a competitive supplier. The participants proposed modifying the requirement in Section 2(d)(1)(IV) that the small-scale provider of last resort provide information regarding the percentage of households and businesses that “have services from the alternative provider” to “have services available from the alternative provider.” The participants proposed deleting the phrase “will not substantially impede

competition in the service area” in Section 2(g)(1). The participants proposed modifying Section 2(g)(4) regarding complaints made by an alternative provider to complaints made by any other carrier or government entity. Lastly, the participants suggested other non-substantive revisions to clarify the regulation.

A copy of the transcript of the proceedings is available for review at the PUCN’s website at <http://pucweb1.state.nv.us/PUCN> and at the offices of the PUCN, 1150 East William Street, Carson City, Nevada 89701 and 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

2. **The number of persons who:**
 - (a) **Attended each hearing:** May 23, 2008 - 16
 - (b) **Testified at each hearing:** May 23, 2008 - 8
 - (c) **Submitted to the agency written comments:** 13
3. **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses in the same manner as they were solicited from the public.

The summary may be obtained as instructed in the response to question #1.

4. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The permanent regulations were adopted on June 4, 2008. They were revised as proposed above by the participants, except the reference to the type of entity that made a complaint against the small-scale provider of last resort was deleted altogether.

5. **The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**
 - (a) **Both adverse and beneficial effects; and**
 - (b) **Both immediate and long-term effects.**

(a) Both adverse and beneficial effects:

The proposed regulations will have beneficial immediate and long-term economic effects on the businesses that they are to regulate and on the public by creating a regulatory scheme intended to promote more competition in the local telephone market. Many of the new or revised regulations may benefit the public and small businesses who are customers of telecommunication providers. For instance, they may see more competitive pricing and additional services being offered as a result of the competitive environment that A.B. 518 was meant to foster.

(b) Both immediate and long-term effects:

See Item # 5(a).

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

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

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

These regulations do not overlap or duplicate any federal, state, or local regulations.

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

N/A

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

N/A

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

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