

LCB File No. R142-99

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

(Adopted as temporary regulation November 13, 1998.)

Docket No. 97-8001 (Distribution Tariffs)

Authority: NRS 703.025, 704.978.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as Sections 2 to 40, inclusive, of this regulation.

Section 2. *As used in sections 2 to 40, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 11, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Section 3. *"Alternative Seller" has the meaning ascribed to it in NRS 704.967.*

Section 4. *"Distribution Facilities" means those facilities used to provide distribution service.*

Section 5. *"Distribution Service" means the service provided over physical distribution plant of delivering electricity from the transmission system to end-use customers.*

Section 6. *"End-Use Customer" means a retail consumer of a potentially competitive service as that term is defined by NRS 704.974.*

Section 7. *"Electric Distribution Utility" has the meaning ascribed to it in NRS 704.970.*

Section 8. *"Prudent Utility Practice" means any of the practices, methods and acts*

engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and efficiency and practices and acts generally accepted in the Western System Coordinating Council region.

Section 9. *“Distribution Customer” means:*

- 1. a licensed Alternative Seller,*
- 2. an End-Use Customer that has an aggregated load of 100 MW or greater and that has executed or intends to execute a service agreement for distribution service with the distribution company, or*
- 3. an End-Use Customer that has approval from the Commission to secure its own distribution service and that has executed or intends to execute a service agreement for distribution service with the distribution company.*

Section 10. *“Provider of Last Resort” means the entity or entities designated by the Commission under NRS 704.982 to provide electric service to end-use customers who are unable to obtain electric service from an Alternative Seller or who fail to select an Alternative Seller.*

Section 11. *“Service Territory” is the territory in which the Electric Distribution Utility has the responsibility to supply or make available noncompetitive service under NRS Section 704.981. This territory is that territory which the Electric Distribution Utility served as of December 31, 1996, until such time as the Commission may change such territory.*

Section 12. *Open Access Obligations of Electric Distribution Utilities*

No later than February 1, 1999, each Electric Distribution Utility shall file with the commission for approval:

1. a tariff for distribution service consistent with the requirements set forth in Sections 12 to 38, inclusive, of this regulation.

2. a Service Agreement consistent with the requirements set forth in Section 39 of this regulation.

3. a Service Request Form consistent with the requirements set forth in Section 40 of this regulation.

Section 13. *The distribution tariff shall set forth the terms and conditions under which the Electric Distribution Utility will provide distribution service over its distribution facilities within its territory to Distribution Customers for delivery of electric power.*

Section 14. *Availability of Service*

The Electric Distribution Utility shall provide distribution service within its service territory under the terms and conditions of the tariff to all Distribution Customers.

Section 15. *Nondiscrimination*

The Electric Distribution Utility shall provide distribution service in a nondiscriminatory manner and consistent with the Commission's regulations governing affiliate practices (see Docket No. 97-5034).

Section 16. *Standard Distribution Service*

Unless otherwise requested by a Distribution Customer pursuant to the procedure set forth in Section 17 of this regulation, the Electric Distribution Utility shall provide firm distribution service to the end-use customer in accordance with Prudent Utility Practice.

Section 17. *Negotiated Distribution Option*

Upon a request by a Distribution Customer for a type of distribution service other than the firm distribution service described under Section 16 of this regulation, the Electric Distribution Utility shall attempt to negotiate a definition of such service and a rate for such service. If such negotiations are successful, the Electric Distribution Utility shall submit to the Commission a request to amend its distribution tariff to include such service, which amendment shall make such service available to all similarly situated Distribution Customers on a non-discriminatory basis. During the period from the 90th to the 120th day (inclusive) after the date on which the distribution company receives a request for negotiation under this section, the distribution company or any other party to the negotiation may petition the Commission to arbitrate any open issues. A party petitioning the Commission under this section shall, at the time it submits the petition, provide the Commission all relevant documentation concerning:

- (i) the unresolved issues;*
- (ii) the position of each of the parties with respect to those issues;*
- (iii) demonstration that such new service will not impair the reliability of the distribution system or raise the costs of distribution service to any other Distribution Customer; and*
- (iv) any other issue discussed and resolved by the parties.*

A party petitioning the Commission under this section shall provide a copy of the petition and any documentation to the other party or parties not later than the day on which the Commission receives the petition. A non-petitioning party to a negotiation under this section may respond to the other party's petition and provide such additional information as it wishes within 25 business days after the Commission receives the petition.

Section 18. Conditions Required to Qualify Distribution Customers to Request

Distribution Service

Before accepting for consideration a Service Request Form submitted by a Distribution Customer, the Electric Distribution Utility shall verify that the Distribution Customer meets the requirements set forth in Sections 18 to 24, inclusive, of this regulation.

Section 19. *Licensing Compliance*

A Distribution Customer must present documentation to the Electric Distribution Utility that it has been licensed by the Commission, or in the case of an End-Use Customer, that its Alternative Sellers have been so licensed.

Section 20. *Service Agreement*

A Distribution Customer must submit a completed service agreement to the electric distribution utility. The Electric Distribution Utility is required to execute a standard service agreement with the distribution customer in an expeditious manner.

Section 21. *Creditworthiness*

A Distribution Customer must satisfy and maintain one of the following indicia of creditworthiness:

1. A long-term bond (or other senior debt) rating of at least BBB- or an equivalent rating. The rating will be determined by Standard & Poor's or another recognized U.S. or Canadian debt rating service;

2. A cost-based security deposit. The amount of the security deposit required to establish credit will be twice the estimated monthly maximum bill for distribution charges. The distribution customer will estimate the initial value of the security deposit to cover its expected customer base and will adjust said estimates quarterly to ensure that the security deposit is sufficient to cover the distribution customer's actual customer base for the previous quarter. Security deposits may be in

the form of:

(a) *cash deposits, with interest earned at the customer deposit rate set forth in NRS 704.655,*

(b) *An irrevocable and renewable Letter of Credit issued by a major financial institution acceptable to the Electric Distribution Utility,*

(c) *A renewable surety bond issued by a major insurance company acceptable to the Electric Distribution Utility, or*

(d) *A guarantee with a guarantor possessing a credit rating of Baa2 or higher from Moody's or BBB or higher from Standard and Poor's, Fitch, or Duff & Phelps, unless the Electric Distribution Utility determines that a material change in the guarantor's creditworthiness has occurred.*

3. *Credit backed by the full faith and credit of the government of the United States.*

Section 22. *The Electric Distribution Utility will return security deposits, less any amounts owed for outstanding payments, to the Distribution Customer when the Distribution Customer is no longer receiving distribution service. Deposits will be returned within 60 days from the date of termination of service. Except where a Distribution Customer's service is terminated for non-payment, the Electric Distribution Utility will pay interest on security deposit refunds from the date of payment through refund, with interest calculated pursuant to NRS 704.655.*

Section 23. *A Distribution Customer must notify the Electric Distribution Utility of any material change in its credit rating or financial condition, including whether its credit or security deposit is adequate for the Distribution Customer's current level of service.*

Section 24. *Data Exchange*

A Distribution Customer must satisfy all applicable electronic data exchange requirements approved by the Commission, including completing all reasonable, nondiscriminatory requirements for electronic interfaces between the Distribution Customer and the Electric Distribution Utility for the purpose of assuring reliable distribution service.

PROCESS FOR DISTRIBUTION CUSTOMERS TO REQUEST AND RECEIVE DISTRIBUTION SERVICE

Section 25. *Request for Distribution Service for End-Use Customers*

Once a Distribution Customer has been qualified to submit a Service Request Form, the Electric Distribution Utility shall begin accepting such requests from the Distribution Customer no later than the date established by the Commission.

Section 26. *Processing Requests for Distribution Service*

1. The Electric Distribution Utility shall provide an acknowledgment to the requestor of its receipt of the Service Request Form to the Distribution Customer within one business day of receipt. All such service requests shall be submitted to the Electric Distribution Utility in a standardized electronic format proposed by the Electric Distribution Utility and approved by the Commission. The Electric Distribution Utility shall provide a notice of approval or rejection of the request within five business days of receiving the request. Such notification shall be submitted electronically to both the submitting Distribution Customer and the affected customer's existing Alternative Seller.

2. Upon receipt of confirmation from the Electric Distribution Utility, the Alternative

Seller will determine and schedule an appropriate customer switch date directly with the customer's meter provider.

3. An Alternative Seller must notify the Electric Distribution Utility of the actual switch date of a customer, and provide the Electric Distribution Utility with a corresponding final meter read no later than three business days after the customer has been switched.

4. In any case, an Alternative Seller must notify the Electric Distribution Utility of its progress towards scheduling a customer within twenty business days of submittal of its initial service request. Failure to make such notification shall result in the Electric Distribution Utility canceling the service request and reverting the customer to Provider of Last Resort Service.

5. A Distribution Customer whose service request has been rejected by the Electric Distribution Utility may resubmit such a service request once the deficiencies associated with it have been resolved.

6. The Electric Distribution Utility shall reject requests for distribution service for any of the following reasons: (a) the information provided by the Distribution Customer is false, incomplete or inaccurate in any material respect; (b) the Distribution Customer is not in compliance with the Prerequisites for Service described in Sections 18 to 24, inclusive, of this regulation; (c) the Distribution Customer fails to respond to the Electric Distribution Utility's reasonable request for additional information regarding the Service Request within three business days; (d) the end-use customer does not have a physical connection or lacks other equipment necessary to enable the Electric Distribution Utility to provide distribution service; or (e) provision of service requested will impair the reliability and safety of the distribution system. At the time of rejection, the Electric Distribution Utility shall provide a full written explanation of the rejection to the Distribution Customer, along with an explanation of the steps that the Distribution

Customer must take in order to obtain distribution service and submit a copy of such communication to the Commission.

7. Upon written request, the Electric Distribution Utility will provide an Alternative Seller with access to generic load profile information. Upon completion of the certification process, the Electric Distribution Utility will provide the Alternative Seller with a listing of Point of Delivery identification numbers, addresses and current rate schedules to facilitate enrollment. If requested by an end-use customer, any available account specific information, including twelve months of usage history, will be provided to the Alternative Seller.

Section 27. Resolution of Disputes Regarding Requests for Service

The Electric Distribution Utility shall resolve disputes pertaining to denials of Service Requests in accordance with the Dispute Resolution Procedures set forth in Sections 36 to 38, inclusive, of this regulation.

Section 28. End-Use Customer Inquiries Regarding Requests for Service

The Electric Distribution Utility shall provide for direct referral of end-use customers who call with inquiries regarding distribution or electric service to an independent end-use customer information center to be established by the Commission.

CONNECTION, SERVICE CHANGES AND DISCONNECTION

Section 29. New Physical Connections

The Electric Distribution Utility shall accept requests for new physical connections from Distribution Customers or end-use customers eligible to order facilities or construction under those provisions of a tariff which deal with line extensions (Rule 9). As used in this section, new physical connection means the installation of wires, lines and other distribution equipment

necessary to physically connect, expand, or change distribution facilities. Requests for new physical connections shall be processed on a nondiscriminatory basis in accordance with the provisions of Rule 9 of the Electric Distribution Utility's tariff or its successor rule.

Section 30. Service Changes Resulting From Termination of Relationship Between Customer and Alternative Seller

The Electric Distribution Utility shall adhere to the following protocol for processing changes in service resulting from a termination of the relationship between an end-use customer and an Alternative Seller:

1. The Alternative Seller shall notify the Electric Distribution Utility that it will no longer be providing service to a particular end-use customer as of five days prior to the intended date of termination of service to that end-use customer, except in the event that the Alternative Seller's license is suspended or revoked by the Commission, in which case the Electric Distribution Utility shall be notified by the Commission two days prior to the intended date of termination of service.

2. Upon receipt of notice from the Alternative Seller, the Electric Distribution Utility will determine whether another Alternative Seller has submitted a Request for Service on behalf of such customer. Such request from a new Alternative Seller must be received by the Electric Distribution Utility two days prior to the Alternative Seller's intended date of termination of service. If a request from another Alternative Seller is timely received, the Electric Distribution Utility will switch the customer to the new Alternative Seller on the date that its service with the first Alternative Seller terminates.

3. The Electric Distribution Utility will notify the Provider of Last Resort that a new end-use customer will be added to its service in the event that a request from another Alternative Seller has not been received within two days prior to the Alternative Seller's intended date of

termination of service, or, upon receipt of notice from the Commission, shall immediately inform the Provider of Last Resort that a group of customers will be added to its service two days hence. The Electric Distribution Utility will switch the customer to the Provider of Last Resort on the date that the customer's service with its Alternative Seller terminates.

Section 31. *Service Changes Resulting From Termination of Service to the Alternative Seller*

The Electric Distribution Utility shall adhere to the following procedures for processing changes in distribution service to an end-use customer where the Electric Distribution Utility terminates distribution service to the Alternative Seller:

1. No more than five business days prior to the Electric Distribution Utility's intended termination of distribution service to the Alternative Seller and in no event prior to notification by the Electric Distribution Utility to the Alternative Seller of the date of termination of service, the Electric Distribution Utility shall notify the end-use customer that the Alternative Seller's service will be terminated. This notice shall provide end-use customers with the date of termination and the phone number of the end-use customer information center where information regarding Alternative Sellers and Provider of Last Resort service may be obtained. The notice shall advise end-use customers that they must designate an Alternative Seller within five business days or they will be changed to Provider of Last Resort service for the minimum period of time established by the rules governing Provider of Last Resort service.

2. In the event that the Electric Distribution Utility does not receive a Request for Distribution Service from an Alternative Seller on behalf of the customer within the time provided, the Electric Distribution Utility must, as soon as practical, notify the Provider of Last

Resort that a new customer will be added to its service.

3. After following the foregoing procedures, the Electric Distribution Utility shall terminate service to the Alternative Seller on the date specified in the notice to end-use customers and switch the customer's service to another Alternative Seller, if specified, or to the Provider of Last Resort.

Section 32. *Planned Outages*

1. The Electric Distribution Utility shall provide notice to all affected Distribution Customers that will be affected by a planned outage. Such notice shall be given no later than one business day following the scheduling of the planned outage.

2. In the event that the loading of the distribution system or a portion thereof must be reduced for reasons such as safe and reliable operation or to allow for system repairs, the Electric Distribution Utility shall allocate these reductions in load proportionally among all customers whose load contributes to the need for the reduction when such proportional curtailments can be accommodated in accordance with Prudent Utility Practice.

Section 33. *Unplanned Outages*

In the event of unplanned outages, the Electric Distribution Utility will restore service in accordance with Prudent Utility Practice.

Section 34. *Information to Be Provided to Distribution Customers*

The Electric Distribution Utility must maintain the ability to handle reports on outages and requests for repairs. The Electric Distribution Utility shall provide all Distribution Customers with a telephone number for personnel within the Electric Distribution Utility responsible for responding to calls reporting outages and requesting repairs. The Electric Distribution Utility shall allow the Alternative Seller to use the "outage and repair" telephone number to forward

calls from end-use customers regarding outages directly to the Electric Distribution Utility's outage and repair phone number.

Section 35. *Inquiries Regarding Outages and Repairs*

1. The Electric Distribution Utility shall handle all inquiries regarding outages and repairs from all Alternative Sellers and end-use customers in a nondiscriminatory manner and shall remedy reported outages and repairs as expeditiously as possible consistent with Prudent Utility Practice. The Electric Distribution Utility shall also provide all follow-up information regarding completion of repairs as requested by Alternative Sellers and customers.

2. The Electric Distribution Utility may contact customers in accordance with Prudent Utility Practice to obtain additional information necessary to remedy the outage or complete a requested repair, irrespective of whether the outage or repair request was reported by the Alternative Seller on the end-use customer's behalf or directly by the end-use customer.

Section 36. *The Electric Distribution Utility shall abide by the procedures for dispute resolution set forth in Sections 37 and 38 of this regulation to resolve all disputes between a Distribution Customer and an Electric Distribution Utility arising under this regulation. These procedures will not apply to amendments to the filed tariff or the filed Service Agreement, which shall be presented directly to the Commission for resolution.*

Section 37. *Internal Dispute Resolution*

The Electric Distribution Utility shall initially refer any disputes between the Electric Distribution Utility and a Distribution Customer to a designated senior representative of the Electric Distribution Utility and a designated senior representative of the Distribution Customer for resolution on an informal basis as promptly as practicable.

Section 38. *Subsequent Resolution*

In the event that the designated representatives are unable to resolve the dispute within thirty days or any other time period otherwise agreed to by the parties, such dispute may be submitted for resolution by the Commission in accordance with applicable rules governing resolution of complaints or disputes by the Commission.

Section 39. Service Agreements

The Service Agreement to be submitted by the Electric Distribution Utility must:

- 1. incorporate all provisions of the tariff by reference;*
- 2. address the term of service, which shall commence on the date specified in the Service Agreement and terminate (a) on the date that the Alternative Seller is no longer providing service within the Electric Distribution Utility's service territory; (b) by mutual consent of the parties, or (c) as a result of default as described in the Service Agreement;*
- 3. address circumstances under which a party will be considered in default under the Agreement. Possible bases for default may include non-payment or material breach of other terms of the Service Agreement. The Service Agreement must also set forth a mechanism by which parties can cure a default. The Electric Distribution Utility is obligated to comply with these procedures prior to termination of service;*
- 4. set forth the obligations of the Distribution Customer to the Electric Distribution Utility. The obligations of the Distribution Customer to the Electric Distribution Utility must include at a minimum:*
 - (a) the obligation to pay for service rendered under the Tariff and the Service Agreement (irrespective of any default by an end-use customer to the Alternative Seller), and*
 - (b) the obligation to provide sufficient power for customers, including losses. The Service Agreement shall specify those situations where delivery deficiencies are such that back-up*

is permissible and where deficiencies are significant enough to result in the Alternative Seller's breach of its obligation to provide power for customers;

5. establish the procedure under which the Electric Distribution Utility will bill the Distribution Customer and specify where and when payment of bills will be made;

6. address limitation of liability between the parties and indemnification requirements;

7. address the rights of the parties to assign and delegate rights and obligations under the Service Agreement;

8. state where notices provided under the Agreement will be sent;

9. include a procedure for resolution of disputes under the Service Agreement; and

10. include a procedure under which each party can initiate and conduct an audit of the other entity's relevant records.

Section 40. *The Service Request Form to be submitted by the Electric Distribution Utility must require the Distribution Customer to provide the following information:*

1. Name of end-use customer, address, and account number assigned by the distribution customer.

2. Point of delivery identification number (or other information which will identify point of delivery).

3. Name and billing address of Distribution Customer requesting distribution service.

4. Any other information that the commission deems necessary for the provision of distribution service.