

**LCB File No. R107-00**

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

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

In re petition of the Staff of the Public Utilities Commission and	)	
the Bureau of Consumer Protection to adopt regulations	)	
regarding performance standards and penalties for the provision	)	Docket No. 99-11019
of local telecommunications services and expedited procedures	)	
for complaints between telecommunications providers arising	)	
under NRS 703 or 704.	)	
_____	)	

**NOTICE OF INTENT TO ADOPT REGULATIONS**  
**NOTICE OF HEARING**  
**REQUEST FOR COMMENTS**  
**(TELECOMMUNICATIONS SERVICES - PERFORMANCE STANDARDS,**  
**PENALTIES AND PROCEDURES)**

On November 15, 1999, the Regulatory Operations Staff (“Staff”) of the Public Utilities Commission of Nevada (“Commission”), and the Attorney General’s Bureau of Consumer Protection (“BCP”) filed a petition with the Commission to adopt regulations applicable to interconnection, unbundled network elements and resold services of incumbent local exchange carriers with greater than 30,000 access lines in Nevada. The petition was designated as Docket No. 99-11019. Specifically, Staff and the BCP requested the Commission to adopt regulations to: 1) determine whether interconnection, unbundled access and resold services provided by incumbent local exchange carriers to competitors are at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party; 2) provide remedies for failure to meet those standards; and 3) to provide procedures for resolving disputes between carriers.

At a general session of the Commission held at its offices on December 2, 1999, the Commission voted to schedule a workshop and set this matter for hearing. Workshops were conducted on April 12, 17, and 18, 2000, and on May 15 and 18, 2000. Revisions made to the proposed regulations at the workshops include an amendment to the scope of the regulations. The proposed regulations are applicable to interconnection, unbundled network elements and

resold services of nonrural incumbent local exchange carriers, nonrural incumbent local exchange carriers being defined as those incumbent local exchange carriers that do not meet the definition of a rural telephone company as defined in 47 U.S.C. § 153(37). As a result of the hearing conducted on August 15, 2000, modifications were made to the proposed regulations which include substantive changes concerning the procedures to be undertaken when, in disputes between telecommunications providers, a request for interim relief is made. The Commission's action in this docket is pursuant to the Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC") Chapters 703 and 704 and, in particular, Sections 23 and 24 of Senate Bill 440 (codified in NRS 704.281 and 704.282, respectively).

The following information is provided pursuant to the requirements of NRS 233B.0603: NRS 704.281 requires the Commission to establish standards of performance and reporting regarding the provision of interconnection, unbundled network elements and resold services, which encourage competition and discourage discriminatory conduct in the provision of local telecommunications services. This provision also requires the Commission to establish penalties and expedited procedures for actions that are inconsistent with such standards established by the Commission. NRS 704.282 requires the Commission to establish by regulation expedited procedures for complaints filed by a provider of telecommunications services against another provider of telecommunications services for any dispute arising under Chapters 703 or 704 of NRS, including specific procedures for interim relief that may include a preliminary decision by a single commissioner except as to the imposition of monetary penalties.

The proposed regulations provide for Commission determination, upon hearing and notice, a company-specific set of performance measurements which must include assessment of the incumbent local exchange carrier's performance in activities which include the following services: pre-ordering, ordering, provisioning, maintenance, network performance, billing, collocation, database updates, and interfaces. In addition, the proposed regulations specify the minimum reporting and auditing requirements, which, upon hearing and notice, the Commission may require that each company-specific incumbent local exchange carrier shall comply. Further, the proposed regulations provide that the Commission, upon hearing and notice, shall determine for each incumbent local exchange carrier subject to the proposed regulations, a prescribed system of penalties for actions that are inconsistent with the standards adopted in the plans approved by the Commission. The proposed regulations include provisions governing expedited

dispute resolution procedures, including mandatory mediation, and sets forth the procedure to be followed in filing a complaint. Finally, the proposed regulations provide for applications for emergency relief.

The provisions of the proposed regulation potentially affect all entities that offer or which will offer local telecommunications services as well as all customers of such entities. At this time, the Commission cannot quantify either the adverse or beneficial economic effects on the entities affected by the regulation, either immediate or long-term, which may result from the regulation. However, it is anticipated that some additional costs may be incurred by local telecommunications services providers in reporting and filing with the Commission their performance measures, reporting plans, and performance incentives programs, as well as those incurred by each telecommunications provider of last resort of basic service, in filing its approved system of penalties. No adverse economic effects, either immediate or long-term, are expected to inure to the public. The public may experience beneficial economic effects in that the performance standards, reporting plans, and performance incentive programs that local telecommunications service providers must meet, will become standardized.

The Commission at this time does not envision any increased costs associated with enforcement of these proposed regulations. These regulations do not overlap or duplicate any other state or local government regulation, nor do they establish any new fee or increase an existing fee.

In its Order issued on April 11, 2000, the Commission determined that the proposed regulations in Docket No. 99-11019 neither impose a direct and significant economic burden on a small business nor directly restrict the formation, operation, or expansion of a small business.

Pursuant to NRS 233B.061, NOTICE IS HEREBY GIVEN that the Commission will hold a public HEARING in this docket as follows:

**TUESDAY, OCTOBER 17, 2000**

10:00 a.m.  
Hearing Room A  
Public Utilities Commission of Nevada  
1150 E. William Street  
Carson City, Nevada 89701

at which time interested persons may appear and be heard. The hearing may continue from day to day if necessary. At this time, the Commission has reserved Tuesday, October 17, 2000, for

this hearing. The purpose of this hearing is to solicit and discuss comments from interested persons regarding the proposed regulations as discussed above, including any oral or written comments received to date in this docket.

Persons wishing to comment upon the proposed regulations may appear at the scheduled hearing or may address their comments, data, views or arguments, in written form, to the Secretary of the Commission, 1150 East William Street, Carson City, Nevada 89701, or at 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

Written comments for the HEARING must be received by the Commission and all persons of record **on or before Friday, September 22, 2000**. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Commission may proceed immediately to act upon any written submissions.

A copy of this notice and the proposed regulations are on file and available for public inspection during business hours at the State Library, 100 Stewart Street, Carson City, Nevada. Additional copies of the notice and proposed regulations are available at the offices of the Commission: 1150 East William Street, Carson City, Nevada 89701 and 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109. In all counties in which an office of the Commission is not maintained, a copy of this notice and proposed regulation will also be available for public inspection and copying at the main public library during business hours. This notice and the text of the proposed regulation will be available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulations will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary by the Commission.

Upon adoption of any regulation, the Commission, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reasons for overruling the consideration urged against its adoption.

This notice has been posted at the county courthouses located in Reno, Carson City, and Las Vegas.

By the Commission,

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CRYSTAL JACKSON, Commission Secretary

Dated: Carson City, Nevada

(SEAL) \_\_\_\_\_

**PROPOSED REGULATIONS OF THE PUBLIC UTILITIES COMMISSION OF NEVADA  
FOR PERFORMANCE STANDARDS,  
PENALTIES, and PROCEDURES**

Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 1 to 4, inclusive, of this regulation.

**Section 1.** Scope; General Requirements.

1. SCOPE. The provisions of this regulation, inclusive, apply to interconnection, unbundled network elements and resold services of nonrural incumbent local exchange carriers. Nonrural incumbent local exchange carriers shall be those incumbent local exchange carriers that do not meet the definition of a rural telephone company as defined in 47 U.S.C. § 153 (37).

2. GENERAL REQUIREMENTS. The provisions of this regulation are to be used to:

(a) Determine whether interconnection, unbundled access and resold services provided by incumbent local exchange carriers to competitive local exchange carriers are at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party; and

(b) Provide remedies for failure to meet those standards.

3. REQUEST FOR APPROVAL OF PERFORMANCE MEASURES AND REPORTING PLANS AND PERFORMANCE INCENTIVE PLANS; COMMISSION REVIEW AND APPROVAL.

(a) As provided in this regulation, each nonrural incumbent local exchange carrier shall file with the Commission a request for approval of a performance measure, reporting, and auditing plan and a performance incentive plan.

(b) The Commission will conduct a hearing on the request for approval within sixty (60) days of the date on which the request for approval is filed. Any certificated competitive local exchange carrier doing business in the service area of the subject incumbent local exchange carrier may request modifications in such proceeding.

(c) The Commission will issue an order granting, denying, or modifying the request for approval and any request for modification within one hundred twenty (120) days of the date on which the request for approval is filed.

(d) By January 31 of each succeeding calendar year, the incumbent local exchange carrier shall file a request for review of its plans with the Commission under subsection 3(a) above.

(e) Unless good cause is shown, no person may request a modification of the plans except as provided under subsection 3(b). Where good cause is shown, the request for modification shall be treated as a request for approval under subsection 3(a) and shall be subject to the timelines set forth in subsections 3(b) and 3(c).

## **Sec. 2. Performance Measurements And Reporting Standards.**

1. **SPECIFIC PERFORMANCE MEASUREMENT REQUIREMENTS.** Each nonrural incumbent local exchange carrier shall file with the Commission a performance measurement plan. The Commission will conduct a proceeding to determine a company-specific set of performance measurements for each nonrural incumbent local exchange carrier. Each set of performance measurements must include an assessment of the incumbent local exchange carrier's performance for the following:

(a) **Pre-Ordering.** Pre-Ordering activities relate to the exchange of information between an incumbent local exchange carrier and a competitive local exchange carrier regarding current or proposed customer products and services, or any other information required to initiate the ordering of service by the competitive local exchange carrier. Pre-Ordering encompasses the critical information needed to submit a provisioning order from a competitive local exchange carrier to an incumbent local exchange carrier. Pre-Ordering measurements shall report the timeliness with which the pre-ordering inquiries are returned to a competitive local exchange carrier by an incumbent local exchange carrier. At a minimum, pre-ordering measurements must assess the level of service provided for the following query types:

- (1) Address Verification/Dispatch Required;
- (2) Request for Telephone Number;
- (3) Request for Customer Service Record;
- (4) Service Availability;
- (5) Service Appointment Scheduling (due date);
- (6) Rejected/Failed Inquiries; and
- (7) Facility Availability.

(b) **Ordering.** Ordering activities include the exchange of information between an incumbent local exchange company and a competitive local exchange carrier regarding requests for service. The number of competitive local exchange carrier service requests that automatically generate a service order in an incumbent local exchange carrier's service order creation system

must be reported within this category. Additionally, ordering measurements must assess the level of service provided for the following actions:

(1) Cycle time of confirmation that a valid service request has been received and a due date for the request assigned;

(2) Cycle time of rejection of any service request with errors; and

(3) Cycle time and efficiency in which ordering tasks are completed by an incumbent local exchange carrier.

(c) Provisioning. Provisioning is the set of activities required to install, change or disconnect a customer's service. Provisioning includes the functions to establish or condition physical facilities as well as the completion of any required software translations to define the feature functionality of the service. Provisioning also involves communication between a competitive local exchange carrier and an incumbent local exchange carrier on the status of a service order, including any delay in meeting the commitment date and the time at which actual completion of service installation has occurred. At a minimum, provisioning measurements must assess:

(1) Quality of service installations;

(2) Cycle time of the installation process; and

(3) Cycle-time of notifications to a competitive local exchange carrier that installation is completed or that installation has been delayed.

(d) Maintenance. Maintenance involves the repair and restoration of customer service. Maintenance functions include the exchange of information between an incumbent local exchange carrier and a competitive local exchange carrier related to service repair requests, the processing of trouble ticket requests by an incumbent local exchange carrier, actual service restoration and tracking of maintenance history. At a minimum, maintenance measurements must assess:

(1) Cycle-time with which trouble requests are resolved by an incumbent local exchange carrier; and

(2) Quality of the service restoration process.

(e) Network Performance. Network Performance involves the level at which the incumbent local exchange carrier provides services and facilitates call processing within its network. An incumbent local exchange carrier also has the responsibility to complete network upgrades efficiently. If network outages do occur, an incumbent local exchange carrier must provide notification to competitive local exchange carriers so they can conduct appropriate network management and notify their customers. At a minimum, network performance measurements must assess the level of service provided on the following actions:



(1) Quality of interconnection;

(2) Timeliness of notification of network outages by incumbent local exchange carriers; and

(3) Timeliness of network upgrades, including code openings, an incumbent local exchange carrier completes on behalf of a competitive local exchange carrier.

(f) Billing. Billing involves the exchange of information necessary for a competitive local exchange carrier to bill its customers, to process the end user's claims and adjustments, to verify an incumbent local exchange carrier's bill for services provided to a competitive local exchange carrier and to allow a competitive local exchange carrier to bill for access. Billing includes usage records. At a minimum, billing requirements must assess:

(1) Accuracy of an incumbent local exchange carrier's billing process; and

(2) Cycle-time of an incumbent local exchange carrier's billing process.

(g) Collocation. Collocation involves the provision to a competitive local exchange carrier of available space within an incumbent local exchange carrier's central end office to allow the installation of a competitive local exchange carrier's equipment. At a minimum, collocation measurements must assess:

(1) Timeliness with which an incumbent local exchange carrier processes a competitive local exchange carrier's request for collocation; and

(2) Timeliness with which an incumbent local exchange carrier provides a collocation facility.

(h) Database Updates. Database updates for directory assistance, directory listings and Emergency 911 listings include the processes by which these systems are updated with customer information that has changed due to service provisioning activity. At a minimum, database measurements must assess:

(1) Timeliness by which changes to customer information are completed by an incumbent local exchange carrier; and

(2) Accuracy by which changes to customer information are incorporated into the appropriate database.

(i) Interfaces. An incumbent local exchange carrier provides competitive local exchange carriers with choices for access to operation support systems for pre-ordering, maintenance and repair. Availability of these interfaces is fundamental to a competitive local exchange carrier's ability to effectively do business with an incumbent local exchange carrier. At a minimum,

interface measurements must assess the availability of an incumbent local exchange carrier's systems and personnel to competitive local exchange carriers.

(j) Each individual measurement, regardless of category, must include, but shall not be limited to:

- (1) Title;
- (2) Description;
- (3) Method of calculation;
- (4) Report period;
- (5) Report structure;
- (6) Level of reported disaggregation;
- (7) Measurement standard; and
- (8) Description of applicable business rules, as approved by the Commission.

(k) An incumbent local exchange carrier may not make changes to any metric, measurement process, start point, end point, definition or any other parameter which would change the measurement, except upon approval by the Commission.

(l) The Commission may exempt an incumbent local exchange carrier from its performance measures and reporting plan any measures if the incumbent local exchange carrier demonstrates that the system processes are providing parity by design.

2. REPORTING REQUIREMENTS. Each nonrural incumbent local exchange carrier shall file a request for approval of a reporting plan with the Commission. The Commission will conduct a proceeding to determine a company-specific set of reporting requirements for each nonrural incumbent local exchange carrier. Each company-specific set of reporting requirements shall include, at a minimum, the following requirements:

(a) Each incumbent local exchange carrier shall make available to a competitive local exchange carrier who, at a minimum, has submitted an order to an incumbent local exchange carrier, the Regulatory Operations Staff of the Commission ("Commission Staff") and the Attorney General's Bureau of Consumer Protection – Utility Consumers' Advocate ("Bureau of Consumer Protection"), performance measurement reports for the prior month, no later than the 15th of the subsequent month, via the incumbent local exchange carrier's website.

(b) Each incumbent local exchange carrier shall file annually with the Commission Staff performance measurement reports on a CD-ROM or diskette for each month. This filing shall be submitted by January 31st of each year. This information shall be treated as confidential.

(c) Each performance measurement report shall include, at a minimum, all reportable measures on file by each incumbent local exchange carrier for which there is activity.

(d) Each performance measure reported shall include information that allows for a determination of parity or benchmark achievement.

(e) When reporting begins on a new measure or for a new competitive local exchange carrier, the incumbent local exchange carrier is only required to report results after a full calendar month of data is available.

(f) All performance measurement reports will be placed on the incumbent local exchange carrier's interactive website. Each competitive local exchange carrier will have access to its own data, aggregate competitive local exchange carrier data, incumbent local exchange carrier data, and the incumbent local exchange carrier's affiliate data. Incumbent local exchange carrier affiliate data will not be included in the competitive local exchange carrier aggregate data.

(g) Raw data supporting the performance measurement results for the incumbent local exchange carrier and the competitive local exchange carriers will be available to the competitive local exchange carriers, the Commission Staff, and the Bureau of Consumer Protection. Raw data will be archived by the incumbent local exchange carrier for a period of twenty-four (24) months. Raw data will be retained with sufficient detail so that the requesting party can reasonably reconcile the data captured by the incumbent local exchange carrier (for the competitive local exchange carrier competitive local exchange carrier) with the internal data of a competitive local exchange carrier.

3. AUDITING REQUIREMENTS. Each nonrural incumbent local exchange carrier shall file a request for approval of an auditing plan with the Commission. The Commission will conduct a proceeding to determine a company-specific set of auditing requirements for each nonrural incumbent local exchange carrier. Each company-specific set of auditing requirements shall, at a minimum, identify comprehensive procedures and cost-allocation methods for an Initial audit, Annual audit, and Mini-audits.

**Sec. 3. Performance Incentives (Penalties).**

The Commission will conduct a proceeding to determine for each incumbent local exchange carrier subject to these regulations a prescribed system of penalties for actions that are inconsistent with the standards adopted in the plans approved by the Commission in Section 2. Each incumbent local exchange carrier who has received an order from a competitive local exchange carrier shall separately file the plan for its approved system of penalties with the Commission. Such a penalties plan:

1. Shall be specific in amount as relates to applicable performance measures, and in an amount reasonable to encourage competitive conduct or discourage discriminatory conduct;

2. Shall be based on actual or statistical methods of measuring whether parity has been missed for the measure, or whether the benchmark has been missed for the measure;

3. To the extent financial payment is made to the affected competitive local exchange carrier, any penalty paid must be deducted, with interest, from any other award to that competitive local exchange carrier under any other judicial or administrative procedure for the same conduct in the same reporting period;

4. Shall be self-executing, subject to limited exceptions; and

5. Shall be subject to any other reasonable conditions or limitations approved by the Commission.

**Sec. 4. Complaints filed between Carriers; Mandatory Mediation; Expedited Dispute Resolution Procedures before the Commission.**

1. **SCOPE.** This section applies to all providers of telecommunications service subject to NRS Chapters 703 or 704, as regarding complaints between such providers.

2. **CERTIFICATION OF PREFILING SETTLEMENT ATTEMPTS.** Prior to filing a Complaint, the Complainant shall attempt resolution of the dispute directly with the other provider. Any Complaint filed shall include a certification by the Complainant that the parties have met and conferred in an attempt to settle the matter, or certifying the refusal of the other party to meet along with a description of the attempts made.

3. **MANDATORY MEDIATION.**

(a) All disputes between carriers must be submitted to Mediation upon the filing of a Complaint with the Commission which complies with the provisions of subsection 4 below. Except for the filing of an Answer and any requests for emergency relief under subsection 5 below, the Commission shall suspend action on the Complaint pending Mediation as set forth in this section, including any action on pending petitions for leave to intervene. The Mediation shall be presided over by the Director of Regulatory Operations or a member of the Commission Staff designated by the Director of Regulatory Operations within three (3) business days of the filing of the Complaint.

(b) The Mediator shall issue a notice to the parties scheduling an initial mediation conference which shall be scheduled and commenced no earlier than fifteen (15) calendar days and no later than thirty (30) calendar days from the date of filing of the Complaint.

(c) Each party shall submit a position statement directly to the Mediator within fourteen (14) calendar days from the date of filing of the Complaint. The position statement shall not be filed with the Commission and shall not be served on the opposing party or its counsel. A position statement must be limited to fifteen (15) pages, and shall concisely state: (a) the relevant facts; (b) the issues that are subject to the dispute; (c) the argument supporting the party's

position in the dispute; (d) applicable legal authorities; and (e) all matters which, in the party's opinion, may assist the Mediator in conducting the mediation conference.

(d) The mediation conference shall be held at the time and place designated by the Mediator. The parties may be represented by legal counsel. Legal counsel for each of the parties and a representative of the party with authority to settle the dispute must attend the expedited dispute resolution conference. The Mediator may, for good cause shown, excuse the attendance of a representative of the party at the conference, provided that counsel has written authorization to resolve the case fully or has immediate telephone access to the representative of the party with such authority.

(e) The procedures for the mediation conference and the sequence and manner of presentations by the parties shall be at the discretion of the Mediator. An additional mediation conference may be conducted by agreement of the parties or at the direction of the Mediator.

(f) If a settlement of the dispute is reached, the parties shall execute and file with the Commission within ten (10) calendar days of such settlement, a voluntary dismissal of the Complaint.

(g) If a settlement of the dispute is not reached, then within ten (10) calendar days from the date of the last mediation conference and in no event later than forty five (45) calendar days from the date on which a telecommunications provider files the Complaint with the Commission, the Complainant and Respondent shall jointly prepare and file with the Commission Secretary a prehearing statement. Such statement shall include a list of undisputed facts and a list of issues for Commission resolution.

(h) Papers or documents prepared by a party, counsel for a party, or the Mediator in furtherance of a mediation conference, excluding the mediation conference report, shall not be available for public inspection or submitted to or considered by the Commission. Matters discussed at the mediation conference and papers or documents prepared pursuant to this section shall not be subject to discovery or admissible in evidence in any administrative proceeding before the Commission.

#### 4. COMPLAINT PROCEDURE.

(a) Filing of Complaint; Assignment of Presiding Commissioner.

(1) A telecommunications provider may file a Complaint with the Commission to resolve disputes with another telecommunications provider arising under NRS Chapter 703 or 704.

(2) The Complaint must be a written statement that:

(I) Contains a short and plain statement of the claim showing that the Complainant is entitled to relief;

(II) Identifies the facts, statutes, regulations, orders or tariffs that support the claim or claims for relief set forth in the Complaint;

(III) Specifies the relief requested, including any Emergency Relief;

(IV) Includes a certificate of service made under penalty of perjury that sets forth the method of service on the Respondent and the Bureau of Consumer Protection in accordance with the requirements of NAC 703.610 via same day or overnight delivery with a copy sent by electronic mail; and

(V) Includes a summary of the Complaint in twenty five (25) or fewer words suitable for publication by the Commission.

(3) The original and nine (9) copies of the Complaint shall be filed with the Commission.

(4) Upon the filing of a Complaint, the Commission will designate a docket number for the administrative proceedings on such Complaint and a Presiding Commissioner will be assigned.

(5) A protective agreement between the parties regarding discovery shall be executed within three (3) business days of the filing of the Complaint.

(6) Objections to discovery requests, if any, shall be made within three (3) business days of the request. Responses to discovery shall be served within ten (10) calendar days of the request. Discovery disputes may be resolved by conference call with the Presiding Commissioner.

(7) All service between the parties shall be made by same day or overnight delivery with a copy sent via electronic email.

(b) Answer; Effect of Failure to Answer.

(1) The Respondent must serve an answer within seven (7) business days after the service of the Complaint.

(2) In the Answer, the Respondent shall:

(I) State in short and concise terms the defenses to each claim asserted;

(II) Admit or deny the facts alleged in the Complaint;

(III) State which allegations the respondent is without knowledge or information to form a belief as to their truth; and

(IV) Set forth any facts and law that constitutes an affirmative defense.

(3) An unexcused failure of the respondent to answer the Complaint with the prescribed time shall be deemed an admission by it of all relevant facts stated in the Complaint.

(c) Hearing on Complaint.

(1) In the event that the Complaint is not fully resolved through Mediation, the Presiding Officer will cause to be served upon the parties an Order designating a hearing no later than forty five (45) days after the filing of the Mediation Conference Report. The only parties to the proceeding shall be the Complainant and Respondent, but may also include the Commission Staff and the Bureau of Consumer Protection. By stipulation of the parties, or by a showing of good cause by one parties, the Presiding Officer may shorten or extend the time set for a hearing. Each party shall file with the Presiding Officer three (3) business days prior to the hearing its prepared testimony and exhibits. Except as modified by the Presiding Officer, the rules of practice and procedure as regards parties, discovery and hearings shall apply to complaints under this rule. The Commission shall adopt a final decision within forty five (45) days of the date of the hearing.

(2) The costs of the initial notice by the Commission and notice of hearing for a proceeding involving emergency relief, if any, shall be borne by the Complainant. The Commission shall, in its final decision apportion the costs of the Commission's expense for the hearing transcript and subsequent noticing as between the parties.

## 5. APPLICATIONS FOR EMERGENCY RELIEF.

(a) Any Complaint may be accompanied by an application for Emergency Relief.

(b) An application for Emergency Relief:

(1) Must be filed at or after the time the Complaint is filed with the Commission and served on the Respondent with the Complaint;

(2) Must clearly establish from specific facts shown by affidavit that immediate and irreparable injury, loss or damage will result to the Complainant because of the conduct of the Respondent and that the Complainant is likely to prevail on the merits of the Complaint;

(3) Must be accompanied by a memorandum of points and authorities establishing the legal basis for the relief requested; and

(4) May not include the imposition of monetary penalties.

(c) The Presiding Commissioner will afford the parties an opportunity to be heard at a hearing noticed concurrently with the initial notice of Complaint upon the Application for Emergency Relief and will condition the terms (time period) of any Order issued thereon to expire upon resolution of the Complaint by Mediation or upon final Commission Order on the Complaint.