

ADOPTED REGULATION OF THE PUBLIC

UTILITIES COMMISSION OF NEVADA

LCB File No. R156-01

Effective January 28, 2002

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

AUTHORITY: §§1-11, NRS 703.025, 704.210 and 704.905 to 704.960, inclusive.

Section 1. NAC 704.980 is hereby amended to read as follows:

704.980 As used in NAC 704.980 to 704.991, inclusive, unless the context otherwise requires:

1. *“Alternative seller” has the meaning ascribed to it in NRS 704.994.*

2. “Landlord” has the meaning ascribed to it in NRS 118B.014.

~~2.~~ 3. “Mobile home park” has the meaning ascribed to ~~it~~ *“manufactured home park”* in NRS 118B.017.

~~3.~~ 4. “Service charge” means the portion of a bill for utility service which ~~which~~ is a fixed amount regardless of the quantity used.

~~4.~~ 5. “Utility” has the meaning ascribed to it in NRS 704.905.

Sec. 2. NAC 704.981 is hereby amended to read as follows:

704.981 ~~The term~~ *For the purposes of NRS 704.940 and NAC 704.980 to 704.991, inclusive,* “common area” ~~as used in NRS 704.940 will be interpreted by the commission to mean~~ *means* any area in a mobile home park which is not rented or leased by a tenant of the park for his exclusive occupancy and use.

Sec. 3. NAC 704.983 is hereby amended to read as follows:

704.983 1. ~~[A landlord who]~~ *If the landlord of a mobile home park* assesses and collects *from his tenants* a service charge for gas or electric service ~~[from his tenants]~~ pursuant to subsection ~~[4]~~ 5 of NRS 704.940 , *the landlord* shall deposit the money for each type of utility service in a separate interest-bearing account in a financial institution which is insured by the Federal Government. The landlord shall retain for at least 3 years each statement issued to the landlord by the financial institution for each such account.

2. Any interest earned in such an account must be retained in that account and may be expended:

- (a) In the manner statutorily authorized for expenditure of the principal; and
- (b) Only for expenses relating to the utility service for which the money was collected.

Sec. 4. NAC 704.984 is hereby amended to read as follows:

704.984 1. ~~[A landlord who]~~ *If the landlord of a mobile home park* assesses and collects from his tenants a service charge for gas or electric service *pursuant to subsection 5 of NRS 704.940, the landlord* shall not withdraw money from the account in which it is deposited without the prior written approval of the commission. The landlord may apply for approval to withdraw money from the account by filing an application with the commission. The application must include:

- (a) A statement of the manner in which the landlord intends to use the money;
- (b) A statement setting forth the estimated or actual costs of:
 - (1) The federal income taxes which must be paid as a result of the collection of the service charge; or
 - (2) Preventive maintenance or for repairing or replacing utility lines or equipment;

(c) A statement setting forth the steps taken by the landlord to ensure that the costs set forth in paragraph (b) are reasonable;

(d) A statement of the amount of any bids which were obtained;

(e) A copy of the most recent statement for the account issued by the financial institution in which the money is deposited showing the current balance in the account;

(f) A statement of the estimated balance in the account if the commission approves the application;

(g) A statement of the manner in which the landlord will pay the costs of any repairs or replacements which exceed the balance in the account; and

(h) A copy of the notice that will be provided to the tenants as required by subsection 3.

2. The minimum amount of a request for withdrawal from the account is \$500 unless the landlord receives authorization from the commission to request a smaller amount. The landlord may aggregate costs of less than \$500 in an application.

3. The landlord shall send written notice to his tenants of his application for permission to withdraw money from the account. The notice must:

(a) Accompany the first bill for utility service delivered to the tenants after the application is submitted to the commission;

(b) Include an explanation of the manner in which the landlord intends to use the money;

(c) Include a general explanation of the manner in which the landlord is required to collect, deposit ~~it~~ and disburse the money ~~he~~ *that the landlord* assesses and collects from his tenants as a service charge;

(d) Include a statement that the money may be used only for federal income taxes which must be paid as a result of the collection of the service charge, for preventive maintenance or for repairing or replacing utility lines or equipment;

(e) State the balance in the account as it appears on the statement issued by the financial institution which is included in the application for permission to withdraw money;

(f) State the amount of money he has requested permission to withdraw; and

(g) Include a statement that the notice is not an increase in rent or service charge.

Sec. 5. NAC 704.985 is hereby amended to read as follows:

704.985 1. In a mobile home park where the landlord is billed by a *water*, gas or electric utility *or an alternative seller* and in turn charges the tenants for the *utility* service provided by the utility ~~or~~ *or alternative seller*, and the park:

(a) Is equipped with individual meters for each lot, the landlord shall, unless authorized by the commission to use a comparable method, determine the charge to each tenant for each billing cycle in the following manner:

(1) The total bill from the utility *or alternative seller* for the park, less any service charge stated on the bill, must be divided by the commodity billing units stated on the bill to determine the rate per unit of service for the billing cycle. The rate per unit of service must be multiplied by the number of comparable units used by each tenant based on a reading of the individual meter of the tenant. The product is the total amount the landlord may charge each tenant for the use of the *utility* service.

(2) ~~The~~ *Any* service charge stated on the bill from the utility *or alternative seller* must be divided by the number of tenants who use the *utility* service to determine the prorated share of each tenant for the service charge.

(3) The maximum amount of the charge to each tenant for gas and electric service is the sum of ~~the~~ :

(I) *The* charge for the use of *the utility* service ~~and the~~ ;

(II) *The* prorated share of each tenant for any service charge *stated on the bill from the utility or alternative seller*; and ~~any~~

(III) *Any* additional service charge ~~imposed by~~ *that* the landlord *assesses and collects* pursuant to subsection ~~4~~ 5 of NRS 704.940.

(4) The maximum amount of the charge to each tenant for water service is the sum of ~~the~~ :

(I) *The* charge for the use of *the utility* service ; and ~~the~~

(II) *The* prorated share of each tenant for ~~the~~ *any* service charge ~~stated on the bill from the utility~~.

(b) Is not equipped with individual meters for each lot, the landlord shall determine the charge to each tenant for each billing cycle by subtracting from the total amount of the bill from the utility *or alternative seller* for the park the cost, to the extent it can be determined, of the *utility* service provided to the common areas of the park and prorating the remainder of the bill equally among the tenants of the park. If the landlord assesses and collects a service charge for electric or gas service pursuant to subsection ~~4~~ 5 of NRS 704.940, the service charge may be added to the prorated share of each tenant to determine the total ~~bill~~ *charge to each tenant* for the utility ~~service~~.

2. As used in this section ~~is~~

~~—(a) “Commodity”, “commodity billing unit” means the unit used to measure the quantity of utility service provided by a utility or an alternative seller to the landlord of a mobile home park and by [a] the landlord to his tenants. The unit for:~~

~~[(1)] (a) Electric service is kilowatt-hour.~~

~~[(2)] (b) Gas service is therm.~~

~~[(3)] (c) Water service is gallon or cubic feet.~~

~~[(b) “Common area” means any area in a mobile home park which is not rented or leased by a tenant of the park for his exclusive occupancy and use.]~~

Sec. 6. NAC 704.986 is hereby amended to read as follows:

704.986 1. If a utility *or an alternative seller* provides *a utility* service to a mobile home park and the landlord of the park charges his tenants for that *utility* service, ~~he~~ *the landlord* shall maintain accurate records of:

(a) Any change in ownership of the park;

(b) All maintenance performed on the utility system by the landlord;

(c) Any surveys performed to detect gas leaks in the park;

(d) The qualifications of any maintenance personnel who are employed by the landlord to repair the gas system;

(e) The charges ~~he~~ *that the landlord* is assessed by the utility *or alternative seller* each billing cycle and the charges ~~he~~ *that the landlord* assesses and collects each billing cycle from the tenants for utility service;

(f) The number of tenants who receive each type of utility service each billing cycle; and

(g) A map and a detailed explanation of the configuration and location of the distribution system of the utility system.

2. The landlord shall retain the records required by:

(a) Paragraphs (a), (b), (e) and (f) of subsection 1 for at least 3 years; and

(b) Paragraphs (c), (d) and (g) of subsection 1 for the period specified in the federal regulations adopted by reference in NAC 704.460.

Sec. 7. NAC 704.987 is hereby amended to read as follows:

704.987 1. The annual report to the commission required by NRS 704.960 must be submitted on a form provided by the commission and contain:

(a) A summary of the expenditures and collections of the landlord for utility services.

(b) If the landlord assesses and collects *from his tenants* a service charge ~~[from his tenants,]~~ *for gas or electric service pursuant to subsection 5 of NRS 704.940*, a detailed statement of ~~[the charges he]~~ *each service charge that the landlord* assesses and collects from the tenants and the expenditures ~~[he]~~ *that the landlord* makes from the ~~[accounts for the service charges]~~ *separate account for each service charge* during the period of the report.

(c) If the landlord assesses and collects from his tenants a late charge for any delinquency in paying for utility services, a description of the method of calculation for such late charges.

2. The report must cover a calendar year and be filed with the commission ~~[no]~~ *not* later than March 30th of the following year.

Sec. 8. NAC 704.988 is hereby amended to read as follows:

704.988 ~~[A landlord of]~~ *If a utility or an alternative seller provides a utility service to a mobile home park and the landlord of the park charges his tenants for that utility service, the landlord* may assess and collect ~~[a late charge from the tenants]~~ *from a tenant* of the park ~~[, but]~~ *a late charge for any delinquency of the tenant in paying for the utility service. The* amount of

the *late* charge must not be more than the ~~[tenants]~~ *tenant* would be required to pay the utility *or alternative seller* for the same delinquency.

Sec. 9. NAC 704.989 is hereby amended to read as follows:

704.989 1. If ~~[a]~~ *the* landlord of a mobile home park is required to give notice to his tenants of a proposed increase in ~~[utility rates as required by]~~ *the rates of a utility service pursuant to* NRS 704.930, the notice must include:

(a) The current rate ~~[which]~~ *that* the utility *or alternative seller* charges the park for the *utility* service;

(b) The rate ~~[which]~~ *that* the utility *or alternative seller* proposes to charge the park for the *utility* service;

(c) The name and address of the utility ~~[;]~~ *or alternative seller*; and

(d) ~~[A]~~ *If a public utility provides the utility service to the park, a* statement that each public utility is required to file an application for a change in tariff with the public utilities commission of Nevada and that this information can be obtained from the commission and the *public* utility.

2. If the landlord increases the charge to his tenants for *the utility* service ~~[for a utility, he]~~, *the landlord* shall notify his tenants of the increase with the first bill for *the* utility service *that is* delivered to the tenants after the increase is effective.

Sec. 10. NAC 704.990 is hereby amended to read as follows:

704.990 1. ~~[H]~~ *Except as otherwise provided in subsection 2, if* the landlord *of a mobile home park* owes a tenant *or former tenant* a refund for a utility deposit paid by the tenant *or former tenant* or *a refund* for the overpayment of a utility bill ~~[;]~~ *by the tenant or former tenant*, the refund and any interest required pursuant to subsection 3 ~~[must, except as otherwise provided in subsection 2,]~~ :

(a) *Must* accompany or be accounted for on the first bill for *the* utility service *that is* delivered to the tenant *or former tenant* after the landlord has notice of the overpayment or the need for a refund of the deposit ~~[.]~~; *or*

(b) *If the tenant or former tenant is no longer being billed for the utility service, must be sent to the current mailing address of the tenant or former tenant after the landlord has notice of the overpayment or the need for a refund of the deposit.*

2. If the landlord owes a tenant or former tenant such a refund, but does not know the current mailing address of the tenant or former tenant, ~~[and:~~

~~—(a) Assesses] the landlord shall:~~

(a) *If the refund relates to gas or electric service and the landlord collects from his tenants a service charge [from his tenants] for that utility service pursuant to subsection [4] 5 of NRS 704.940, [he shall] deposit the refund and any interest required pursuant to subsection 3 in the separate account established for the type of utility service to which the refund is related.*

(b) ~~[Does]~~ *If the refund relates to water service or if the refund relates to gas or electric service and the landlord does not assess and collect from his tenants a service charge [from his tenants, he shall, unless otherwise authorized by the commission,] for that utility service pursuant to subsection 5 of NRS 704.940, apportion the refund equally among the tenants of the mobile home park [.] unless otherwise authorized by the commission.* Each tenant's share of the refund and any interest required pursuant to subsection 3 must accompany or be accounted for on the first bill for *the* utility service *that is* delivered to the tenants after the landlord has notice of the overpayment or the need for a refund of the deposit.

3. In addition to any refund required pursuant to subsection 1 or 2, the landlord shall pay the tenant *or former tenant* or, if applicable, *shall* deposit in the separate account *or apportion*

equally among the tenants of the mobile home park, interest at the rate provided in NRS 704.655. The interest accrues from the date of the overpayment or the date of the receipt of the deposit until the date the tenant *or former tenant* receives the refund or the landlord deposits the refund in the separate account ~~[.]~~ *or apportions the refund equally among the tenants of the mobile home park.*

Sec. 11. NAC 704.991 is hereby amended to read as follows:

704.991 A landlord whose interest in a mobile home park is terminated for any reason shall ~~[provide evidence of]~~ *file with the commission, not later than 45 days after the termination, evidence that the landlord completed* the transfer required by subsection ~~[8]~~ **10** of NRS 704.940 ~~. [within 45 days after the termination.]~~

**LEGISLATIVE REVIEW OF ADOPTED REGULATION
AS REQUIRED BY THE ADMINISTRATIVE PROCEDURES ACT
NRS 233B.066
PUBLIC UTILITIES COMMISSION OF NEVADA
LCB FILE NO. R156-01
DOCKET NO. 01-7039**

The following statement is submitted for adopted amendments to Nevada Administrative Code (“NAC”) 704.

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.

The regulation in Public Utilities Commission of Nevada (“Commission”) Docket No. 01-7039 was noticed two (2) times: August 21, 2001 and October 23, 2001, in the Elko Daily Free Press, the Ely Daily Times, the Humboldt Sun, the Las Vegas Review Journal, the Mineral County Independent, the Nevada Appeal, the Reno Gazette Journal and the Tonopah Times-Bonanza. Additionally, the notice was mailed to county clerks in Reno, Carson City and Nevada, and all persons who requested inclusion on the Commission’s service list. There was no public response except from Central Telephone Company - Nevada d/b/a Sprint of Nevada (“Sprint”). A copy of the summary may be obtained by calling the Commission at (775) 687-6001 or (702) 486-7210, or by writing to the Commission at 1150 East William Street, Carson City, Nevada 89701 or 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

2. The number of persons who:

(a) Attended the workshop:

October 2, 2001: 7
December 18, 2001: 4

(b) Testified at the workshop:

October 1, 2001: 6
December 18, 2001: 4

(c) Attended the hearing:

December 18, 2001: 4

(d) Testified at the hearing:

December 18, 2001: 3

(e) Submitted to the agency written comments: Written comments were submitted to the Commission by the Regulatory Operations Staff (“Staff”) of the Commission and Sprint.

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 by publication in the newspapers, as outlined in #1 above, and by direct mail to interested persons subscribing to the Commission’s mailing list. A copy of the summary may be obtained by calling the Commission at (775) 687-

6001 or (702) 486-7210, or by writing to the Commission at 1150 East William Street, Carson City, Nevada 89701 or 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

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 regulation was changed. Specifically, Staff suggested Section 7(1) be amended to reflect a new subparagraph (c): “(c) If the landlord assesses and collects a late charge for utility services, the landlord shall describe the method for calculating late charges.

5. The estimated economic effect of the adopted regulation on the business 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 intermediate and long-term effects.**

The regulation is not expected to have an immediate economic effect. The regulation expands existing mobile home park reporting requirements to include services obtained from alternative sellers. The expanded reporting requirements should not increase the cost of compliance as mobile home parks have a current obligation to file annual reports. Furthermore, Staff is unaware of any mobile home parks currently taking services from alternative sellers.

The regulation is expected to have an intermediate and long-term beneficial economic effect upon the regulated community. The regulation is expected to result in market efficiency and business savings resulting from the utilization of market information synthesized by Staff, allowing all market participants to reap economic benefit from free, publicly available market information.

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

There is no additional cost to the agency for enforcement of this regulation.

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.

There are no other state or government agency regulations that the proposed regulation duplicates.

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

The proposed regulation does not include provisions that are more stringent than a federal regulation which regulates the same activity.

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.

This regulation does not provide or involve a new fee, and hence since no fee is involved, there is not a total amount expected to be collected or used.