

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

LCB File No. R092-03

September 25, 2003

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

AUTHORITY: § 1, NRS 703.025 and 704.210.

Section 1. NAC 703.680 is hereby amended to read as follows:

703.680 1. ~~Except as otherwise provided in this section, the Commission, the Commission's staff, the presiding officer or any party of record may obtain discovery pursuant to the applicable provisions of the Nevada Rules of Civil Procedure.~~

~~2. Upon a motion by a party of record or by the person from whom discovery is sought and for good cause shown, the presiding officer may prohibit, restrict or modify the scope of the discovery.~~

~~3.]~~ *In addition to the provisions of NRS 703.195 and NAC 703.2208 and 703.2508, the parties to any matter that has been assigned a docket number may conduct discovery with regard to any information that is not privileged through written data requests and oral depositions that are reasonably calculated to obtain information that is relevant to the matter. Upon motion and opportunity for response, the presiding officer may, for good cause shown, prohibit discovery or restrict or modify the scope of discovery.*

2. Except as otherwise provided in subsection 3, a data request, a notice of deposition, and an objection or response to a discovery request must be served upon the appropriate party at the address, telephone number or electronic mail address designated in the application,

petition or petition for leave to intervene and may be sent by United States mail, overnight delivery service, facsimile or electronic mail.

3. In lieu of service pursuant to subsection 2, a responding party in a case with a significant volume of discovery responses may deposit those responses in a password-protected website.

4. A notice of deposition must state the date, time and location of the deposition, and be served at least 10 business days before the date of the deposition. The deposing party may enumerate in the notice any specific documents the deponent must bring to the deposition.

5. A party may object in whole or in part to a discovery request within 5 business days after receiving the request. An objection to a discovery request must be in writing and state the specific grounds for the objection.

6. Unless otherwise ordered by the presiding officer or agreed to by the parties, or unless a timely objection has been made, a response to a data request must be served on or otherwise made available to the requesting party not later than 10 business days after receipt of the request by the responding party, except that the responding party will be allowed an additional 5 business days within which to respond if the responding party timely notifies the requesting party of the need for the additional response time because the responding party is experiencing technical or practical difficulties in providing a thorough response within the 10-day period.

7. Except as otherwise provided in subsection 8, a response to a data request must be submitted in the following quantities to the following persons:

(a) Two copies must be submitted to the staff of the Commission assigned to regulatory operations, unless directed otherwise by the staff in the data request;

(b) Two copies must be submitted to the attorney of record of the Bureau of Consumer Protection in the Office of the Attorney General; and

(c) One copy must be submitted to the requesting party.

8. If a response to a data request is transmitted by electronic mail or deposited in a password-protected website, the responding party shall provide one hard copy of the response to the staff of the Commission assigned to regulatory operations and one hard copy of the response to the attorney of record of the Bureau of Consumer Protection in the Office of the Attorney General within 2 business days after the due date for the response. The parties may agree to, or the presiding officer may order, an on-site inspection of the response to a data request if the response involves confidential or voluminous material. If an on-site inspection is agreed to by the parties or ordered by the presiding officer, the responding party shall make reasonable efforts to facilitate the inspection.

9. If a dispute arises concerning discovery, the involved parties shall confer in good faith to attempt to resolve the dispute before seeking resolution by the presiding officer. The presiding officer shall rule on all motions related to discovery.

10. The following standards apply to discovery responses to the extent available in the format requested:

(a) Computer files must be executable in the file format specified by the staff of the Commission assigned to regulatory operations.

(b) Image files must not be used.

(c) Nominally numeric fields, such as account numbers or negative values, must contain numeric data and not literal data.

(d) Spreadsheet computer files that perform calculations must operate so that a change in input causes a change in output.

11. If a party that is responding to a data request believes that the response contains information which is commercially sensitive or which constitutes a trade secret, the party may, before providing the response, request that a confidentiality agreement be signed by specifying the grounds for the claim of confidential treatment of the information. If a confidentiality agreement is signed, the recipient of the information shall not publicly disclose the information except:

- (a) With the approval of the party that requested the confidentiality agreement; or*
- (b) Pursuant to an order of a court of competent jurisdiction or the Commission.*

12. The parties may agree in writing to alternative discovery procedures and timeframes. A party may pursue any other form of discovery provided for in the Nevada Rules of Civil Procedure upon agreement with the party to whom the discovery request is directed or with permission from the presiding officer upon good cause being shown.

13. If a responding party fails to respond adequately after an order from the presiding officer or the Commission concerning discovery, the Commission may, upon the motion of any party of record, enter such order as the Commission deems just, including, without limitation, the dismissal of the application or petition, the imposition of civil penalties pursuant to NRS 703.380, if applicable, or the revocation of intervener status against the nonresponsive party.

14. A response to a motion for discovery must be filed with the Commission and served upon all parties of record within 5 business days after the motion for discovery is filed with the Commission. A reply to the response, if any, must be filed with the Commission within 5 business days after the response is filed with the Commission.

15. Discovery must be completed at least 15 days before the date set for the hearing unless otherwise ordered by the presiding officer. Any party of record seeking to have this time shortened or lengthened must do so by a motion to the presiding officer. The presiding officer shall grant the motion for good cause shown.

16. *As used in this section “data request” means a comprehensive vehicle for obtaining discovery and includes, without limitation, interrogatories, requests for admission, and requests for production of documents or inspection of property.*