

LCB File No. R005-04

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

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

In re rulemaking to investigate and evaluate Nevada)
Administrative Code Sections 704.7891, 704.7898) Docket No. 00-9030
and 704.7913 to determine if any such regulations should)
be amended or repealed.)
_____)

NOTICE OF INTENT TO AMEND/ADOPT/REPEAL REGULATIONS
AND
NOTICE OF WORKSHOP
AND
NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Public Utilities Commission of Nevada
("Commission") will hold a public WORKSHOP pertaining to Nevada Administrative Code
("NAC") Sections 704.7891, 704.7898 and 704.7913 to determine if these regulations should be
amended, adopted and/or repealed pursuant to the proposed attached regulations as follows:

Monday, February 23, 2004

10:00 a. m.
Hearing Room A
Public Utilities Commission of Nevada
101 Convention Center Drive, Suite 250
Las Vegas, Nevada 89109

VIA TELECONFERENCE TO

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 workshop may continue from day to day as necessary. The purpose of this workshop is to discuss amending, adopting, and/or repealing regulations pertaining to NAC Sections 704.7891, 704.7898 and 704.7913.

NOTICE IS ALSO HEREBY GIVEN that the Commission will hold a HEARING on this docket as follows:

Monday, February 23, 2004

1:00 p.m.
Hearing Room A
Public Utilities Commission of Nevada
101 Convention Center Drive, Suite 250
Las Vegas, Nevada 89109

VIA TELECONFERENCE TO

Hearing Room A
Public Utilities Commission of Nevada
1150 East William Street
Carson City, Nevada 89701

The hearing may continue from day to day as necessary. The Commission may hear Comments from interested persons regarding the proposed regulations. The Commission may also consider other issues related to the provisions of Chapters 233B, 455, 703 and 704 of the Nevada Revised Statutes (“NRS”) and NAC as well as make decisions on procedural issues raised at the hearing. The Commission may also take any other action it deems appropriate under the circumstances.

The following information is provided pursuant to the requirements of NRS 233B.0603:

On September 15, 2000, pursuant to a Stipulation filed with the Second Judicial District Court of Nevada in Case No. CV99-01743, the Commission opened a rulemaking docket to investigate and evaluate NAC Sections 704.7891, 704.7898 and 704.7913 to determine if any

such regulations should be amended or repealed. The Commission designated this matter as Docket No. 00-9030.

On October 18, 2000, the Commission issued a Notice to Solicit Comments to Amend or Repeal Regulations. Comments were filed by the Regulatory Operations Staff (“Staff”) of the Commission, Shell Energy, LLC, Sierra Pacific Power Company, Nevada Power Company, and Southwest Gas Corporation.

On December 28, 2000, the Commission voted to accept Staff’s recommendation that the proposed regulation did not impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business.

On October 22, 2002, the Presiding Officer issued a Procedural Order requiring Staff to submit a small business impact statement for a Commission decision prior to another workshop and hearing scheduled for December 3, 2002.

On November 20, 2002, the Commission again voted to accept Staff’s recommendation that the proposed regulations do not impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business.

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 federal government regulation nor do they establish any new fee or increase an existing fee.

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

A copy of this notice and the proposed regulations will be on file at the State Library, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulations will be available at the offices of the Commission at 1150 East William Street, Carson City, Nevada 89701 or 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109 and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulations are also available in the State of Nevada Register of Administration 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 deemed necessary.

Upon adopting of any regulation, the agency if requested to do so by an interested person either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for an against its adoption and incorporate therein its reason 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,

CRYSTAL JACKSON, Commission Secretary

Dated: Carson City, Nevada

(SEAL)

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

NAC 704.7891 “Affiliate” defined. (NRS 703.025, 704.210, 704.997, 704.998) “Affiliate” means a company that is a branch, division or subsidiary of a distribution company that provides a potentially competitive or discretionary natural gas service.

NAC 704.7898 Business relationship between distribution company and affiliate: Requirements; restrictions. (NRS 703.025, 704.210, 704.997, 704.998)

1. An affiliate shall:

- (a) Be a separate corporate entity from the distribution company;
- (b) Operate independently from the distribution company;
- (c) Maintain books, records and accounts in the manner prescribed by the commission;
- (d) Keep its books, records and accounts separate from the books, records and accounts kept by the distribution company;

(e) Not have officers, directors or employees in common with the distribution company, except that the chairman of the distribution company or of the holding company of the distribution company may serve on the board of directors of the affiliate;

(f) Not have any member on its board of directors who is also an employee or officer of the distribution company, except as otherwise provided in paragraph (e);

(g) Not obtain credit pursuant to an arrangement that would allow a creditor, upon default, to have recourse to the assets of the distribution company; and

(h) Not use office space, office equipment or office services provided by the distribution company, unless the affiliate executes with the distribution company a contract that is approved by the commission. The affiliate and the distribution company must:

(1) File the contract with the commission as a joint application not later than 6 months before the effective date of the contract; and

(2) Demonstrate to the commission that the contract:

(I) Does not circumvent the provisions of NAC 704.789 to 704.792, inclusive;

(II) Preserves an arm’s length business relationship between the affiliate and the distribution company;

(III) Does not interfere with the development of effective competition;

(IV) Will result in minimal risk of anticompetitive behavior by the affiliate or distribution company; and

(V) Will result in minimal regulatory expenses to prevent anticompetitive behavior.

The contract must not become effective until the commission approves the contract. Unless the commission determines otherwise, all office space, office equipment and office services provided by the distribution company pursuant to the contract are subject to the provisions of NAC 704.7901.

2. A distribution company shall document and report quarterly to the commission each occasion that:

(a) An employee of the distribution company becomes an employee of an affiliate; or

(b) An employee of an affiliate becomes an employee of the distribution company.

3. An employee of a distribution company who is hired by an affiliate:
 - (a) Shall not remove proprietary property or information from the distribution company;
 - (b) Shall not provide the affiliate with proprietary property or information of the distribution company;
 - (c) Shall not use proprietary property or information of the distribution company on behalf of the affiliate; and
 - (d) Shall, before he becomes an employee of the affiliate, sign a statement indicating that the employee has read and will abide by the restrictions set forth in this section and understands that a violation of a provision of this section could subject him to the penalties set forth in NAC 704.7919.

NAC 704.7913 Affiliate: Standards of conduct. (NRS 703.025, 704.210, 704.997, 704.998)
An affiliate:

1. Shall not market or otherwise sell services jointly with the distribution company;
2. Shall not have a name, logo, trademark, service mark or trade name that is deceptively similar to that of the distribution company;
3. Shall not have the logo, trademark or other corporate identification of the distribution company appear on documents of the affiliate or on goods or merchandise sold by the affiliate, unless the commission specifically authorizes, subject to any conditions that the commission deems necessary, the affiliate to use the name, logo, trademark, service mark or trade name;
4. Shall not use the name of the distribution company in any material that the affiliate circulates, unless the affiliate provides with the material the information described in subsection 6;
5. Shall not use space in the correspondence of the distribution company or any other form of information about the distribution company for the purpose of advertising the services of the affiliate; and
6. Shall not advertise its affiliation with the distribution company, unless the affiliate includes each of the following statements in a manner no less prominent than the statement of affiliation:
 - (a) (Name of the affiliate) is not the same corporation as (name of distribution company). (Name of affiliate) has separate management and separate employees.
 - (b) (Name of affiliate)'s affiliation with (name of distribution company) does not entitle (name of affiliate) to any special endorsement of the public utilities commission of Nevada.
 - (c) The safety, reliability and cost of distribution service received by customers of (name of affiliate) will be equivalent to that received by customers of nonaffiliated companies.