

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

LCB File No. R010-05

June 20, 2005

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

AUTHORITY: §§1-5, 7, 8, 9, 11 and 14-31, NRS 703.025 and 704.210; §6, NRS 233B.040, 233B.050 and 704.210; §10, NRS 703.025, 703.130 and 704.210; §§12 and 13, NRS 703.025, 703.190, 703.196 and 704.210; §32, NRS 703.025, 704.095 and 704.210, §33, NRS 233B.040, 233B.050, 703.025 and 704.210.

A REGULATION relating to the Public Utilities Commission of Nevada; revising provisions relating to the allowance of deviations of regulatory requirements; revising provisions relating to various proceedings before the Commission; revising provisions relating to tariffs and other documents required to be filed with the Commission; revising the time by which certain documents must be filed or served; requiring informal discovery meetings to be held under certain circumstances; eliminating the requirement that the staff of the Commission meet informally with customers of certain utilities who are seeking to change their rates and charges; and providing other matters properly relating thereto.

Section 1. Chapter 703 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *Unless otherwise specifically stated in an order issued by the Commission, all compliance items set forth in an order issued by the Commission must be filed in the same docket and the Commission will not hold any further proceedings for that docket.*

Sec. 3. *Not later than 14 days before a utility files:*

1. An application for an adjustment to a general rate pursuant to NAC 703.2201 to 703.2481, inclusive, or 703.251 to 703.2711, inclusive;

2. *An application for a deferred energy accounting adjustment pursuant to NAC 704.116;*

or

3. *A rate adjustment application for customers of natural gas service pursuant to NAC 704.6679,*

↪ the applicant, the Commission's staff assigned to regulatory operations and the Bureau of Consumer Protection in the Office of the Attorney General shall hold an informal discovery meeting.

Sec. 4. NAC 703.115 is hereby amended to read as follows:

703.115 The Commission or the presiding officer may allow deviation from the provisions of this chapter if:

1. ~~1. The deviation would not adversely affect the substantial interests of the parties;~~
- ~~—2.]~~ Good cause for the deviation appears; ~~and~~
- ~~—3.]~~ 2. The person requesting the deviation provides a specific reference to each provision of this chapter from which deviation is requested ~~1.]~~; *and*

3. *The Commission finds that the deviation is in the public interest and is not contrary to statute.*

Sec. 5. NAC 703.2714 is hereby amended to read as follows:

703.2714 Whenever a small provider of last resort of basic service, who is regulated pursuant to NAC 703.27128 to 703.27146, inclusive, requests to establish or change the rates for a new or existing service which it is requesting to be classified as competitive or discretionary, or which has been previously classified by the Commission as discretionary or competitive, the small provider may establish or change rates by complying with the requirements for notice, filing and other terms and conditions set forth in NAC 704.6806 to 704.6808, inclusive,

704.7475, 704.7477, 704.7485 and 704.7487, as appropriate. If the rate schedule includes services previously classified by the Commission as discretionary or competitive, the filing must be accompanied by a specific reference to the appropriate Commission records or orders which indicate that the service has been classified as discretionary or competitive. A filing made pursuant to this section is not subject to the requirements set forth in subsection ~~2~~ 3 of NAC 703.400.

Sec. 6. NAC 703.288 is hereby amended to read as follows:

703.288 1. The presiding ~~Commissioner~~ *officer* of a proceeding concerning a petition for arbitration filed in accordance with 47 U.S.C. § 252 shall use such procedures as are necessary to enable the presiding ~~Commissioner~~ *officer* to issue a proposed order regarding the issues which have been submitted for resolution not later than 240 days after the date on which the request for negotiation was submitted to the local exchange carrier.

2. Not later than 10 days after the date on which a petition for arbitration is filed with the Commission, the Secretary of the Commission shall issue a public notice and provide notice to each party and each person and entity on the list for notification established pursuant to NAC 703.296, that a petition for arbitration has been received. The notice must specify the date:

- (a) By which an answer must be filed.
- (b) By which a notice of intent to comment must be filed.
- (c) On which a prehearing conference will be convened.

3. An order for a prehearing conference issued by a presiding ~~Commissioner~~ *officer* to consider a petition for arbitration must specify:

- (a) The date on which an evidentiary hearing will be convened; and

(b) Any other matters deemed appropriate by the presiding ~~Commissioner~~ *officer*, including reply comments, if desired.

4. The presiding ~~Commissioner~~ *officer* shall prepare a proposed order which must be submitted to the Commission not later than 240 days after the date on which the request to negotiate was submitted to the local exchange carrier. The proposed order must be:

(a) Filed with the Commission;

(b) Served on the parties to the proceeding, the staff of the Commission and the Consumer's Advocate; and

(c) Provided to each person and entity who filed a notice of intent to comment.

5. Any party or interested person or entity may file comments regarding the proposed order not later than 10 days after the date on which it is filed with the Commission. The scope of such comments must be limited to whether:

(a) The proposed agreement adopted by the proposed order discriminates against any telecommunications carrier that is not a party to the agreement;

(b) The implementation of the proposed agreement is consistent with the public interest, convenience and necessity; or

(c) The proposed agreement violates other requirements of the Commission, including, but not limited to, any standards adopted by the Commission relating to the quality of telecommunication service.

6. Any party or interested person or entity may file a response to any comments filed pursuant to subsection 5. Such responses must be filed with the Commission not later than 5 days after the date on which the comments are filed and may not exceed five pages in length.

Sec. 7. NAC 703.385 is hereby amended to read as follows:

703.385 1. A tariff schedule must be in loose-leaf form for binding in a stiff-backed book or volume and consist of the following parts or subdivisions arranged in order:

(a) A title page which must be in the following form:

“TARIFF NO.

Applicable to

(Kind of) Service

Naming

RATES, RULES AND REGULATIONS

of

(Name of Utility)

in

(Describe Area of Operations)”

(b) A complete index of numbers and titles of effective sheets or pages listed in the order in which the tariff sheets or pages are arranged in the tariff schedule.

(c) A brief description of the territory served, with a map of the territory, types and classes of service rendered and the general conditions under which the service is rendered.

(d) Rate schedules.

(e) Rules and regulations.

2. A tariff schedule [~~Forms 23A and 23B*~~] must be on loose-leaf sheets of paper which are 8 1/2 by 11 inches and of not less than 13 pound bond. Tariff schedules may be typewritten,

or reproduced by any other process which will provide a durable record. Only one side of a sheet may be used. ~~[Each page must be ruled and filled in as follows:]~~ *For each page:*

(a) A margin of at least three-fourths of an inch must be on the left side of the page, a margin of at least one-half of an inch on the right side, ~~[and]~~ a margin of 1 inch at the top of the page ~~[-~~

~~—(b) A ruled box 7 inches wide and 9 1/2 inches long must be outlined. This box must be further divided at the bottom into three boxes which are 1 1/2 inches long, with one center box 3 inches in width and two outer boxes 2 inches in width. A format printed by a computer without vertical lines is acceptable if the spacing required by this paragraph is followed.~~

~~—(c)]~~ *and a margin of 2 inches at the bottom of the page.*

(b) In the upper left-hand corner, the name and address of the public utility must be entered with the tariff number.

~~[(d)]~~ (c) In the upper right-hand corner of the top margin, the number of the sheet of the Commission with designations as to whether it is an original or revised sheet, together with the Commission's number of the sheet cancelled, if any, by that sheet must be entered. Sheets must be numbered consecutively beginning with No. 1 for the first sheet filed.

~~[(e)]~~ (d) In the lower left-hand ~~[box,]~~ *corner of the bottom margin*, the words, "Issued: (date issued by utility)" must be entered. Immediately below, the words, "Effective: (date desired effective)" must be entered, and immediately below, the words, "Advice No: (advice letter number)" must be entered.

~~[(f)]~~ (e) In the ~~[lower center box,]~~ *center of the bottom margin, the words* "Issued by: (name and title of the responsible utility official)" must be entered.

~~[(g)]~~ (f) The lower right-hand ~~[box]~~ *corner of the bottom margin* must be left blank for use by the Commission.

3. Each rate schedule must include the following information, as nearly as possible in the order shown:

- (a) The schedule number or other description.
- (b) The class of service, such as commercial or domestic.
- (c) Character or applicability, such as heating, lighting, power or individual and party line telephone service.
- (d) The territory to which the schedule is applicable.
- (e) Rates in tabular form, where applicable.
- (f) Conditions, limitations, qualifications and restrictions. The conditions must be brief and clearly worded to cover all special conditions of the rates which are not fully covered in the rules and regulations.
- (g) If a rate schedule or a rule and regulation is continued from one sheet to another, the word “continued” must be shown at the bottom of and at the beginning of the appropriate sheets.

4. Each rule and regulation must be numbered and have a title briefly indicating its contents. Appropriate general rules and regulations must cover the application of all rates, charges and service when the applicability is not fully set forth as a part of the rate schedules. The following subjects are representative of the type of information to be included in the rules and regulations of the utility set forth in the tariff schedules:

- (a) Clear and concise definitions of the principal terms used in the tariff schedules.
- (b) A description of the character of service rendered and the standards of service maintained.
- (c) The procedure which is necessary to obtain service.
- (d) Conditions precedent to rendering temporary service or service to speculative projects.
- (e) The procedure necessary to establish credit and to reestablish impaired credit.

(f) The deposits required for various purposes and classes of service, the conditions precedent to the return of deposits and the interest paid on the deposits.

(g) The method of serving notices.

(h) The methods of rendering bills, billing periods, due date and acceptable methods of payment.

(i) The methods used to adjust bills, the required amount to be deposited with the utility and the time limits.

(j) Reasons for discontinuance, procedures for notification, time limits and procedures necessary for the restoration of service and charges.

(k) Free extensions, deposits for extensions and refunds.

(l) Service connections.

(m) The right of the utility to enter onto the customer's property.

(n) Any other items having special significance to particular conditions respecting the operations or policies of the utility.

~~[*See adopting agency for form.]*~~

Sec. 8. NAC 703.390 is hereby amended to read as follows:

703.390 1. Tariff sheets must be transmitted to the Commission accompanied by a letter of advice that is not a part of the tariff. A revised table of contents and the appropriate filing fee must be transmitted with each letter of advice.

2. ~~Six~~ *Nine* copies of each letter of advice and tariff sheet must be filed with the Commission. One receipted copy of the letter of advice will be returned to the utility.

3. The letter of advice ~~[(Form 23C*)]~~ must list the sheet numbers and titles of all tariff sheets being filed and the numbers of all sheets being cancelled. The letter must state the reasons

for the filing and the date on which the tariff sheets are proposed to become effective. The letters of advice must call attention to each increase or decrease in rate or charge or change in condition which may result in an increase, decrease or withdrawal of service. If an increase is authorized by the Commission, reference in the letter of advice to the decision number authorizing that increase must be given.

4. Letters of advice must be numbered chronologically beginning with No. 1 for the first letter submitted by a public utility for each class of utility service rendered. A single series of letters may be used for telephone and telegraph services combined in the same tariff schedule. The present series of numbers, if not inconsistent with the provisions of NAC 703.375 to 703.410, inclusive, must be continued . ~~[(Form 23C*)]~~

5. Each revised or new tariff page or sheet must indicate on the bottom of the page or sheet the number of the letter of advice transmitting the revised filing . ~~[(Forms 23A and 23B*)]~~

6. If any tariff is reissued and completely cancels a current tariff or is a reissue of a previously effective tariff, the reissued tariff must bear the same number as the current or previously cancelled tariff, suffixed by a letter, for example, Tariff 1-A, and continuing through the alphabet as that tariff is subsequently reissued, as follows:

Tariff No. 1-A

cancels

Tariff No. 1.

~~[*See adopting agency for form.]~~

Sec. 9. NAC 703.400 is hereby amended to read as follows:

703.400 1. *A tariff sheet covering a service or commodity not previously furnished, a tariff sheet modifying an existing service and a tariff sheet that does not alter any rate or charge may be filed by a letter of advice as described in NAC 703.390.*

2. An application to increase rates must be made in accordance with the provisions established for pleadings and motions and the requirements for public utilities requesting rate adjustments unless the rate increases generate annual gross revenues, as certified by the applicant, of \$2,500 or less. ~~If the Commission grants a formal application, the utility shall prepare and file appropriate tariff sheets, accompanied by a letter of advice as provided in NAC 703.390.~~

~~2.]~~ 3. If the proposed increases involve \$2,500 or less, the Commission may accept the filing of a letter of advice, if justification is fully set forth in that letter, without an application made pursuant to NAC 703.2201 to 703.2481, inclusive.

~~[3.—The filing of a tariff sheet that results in an increase in any rate or charge or in a more restrictive condition must be filed as part of the application required by NAC 703.2201 to 703.2481, inclusive.]~~

4. *A change to a tariff that is filed by letter of advice does not become effective until approved by the Commission.*

5. *A copy of the utility's tariff sheet approved by the Commission will be returned to the utility with a designation of the effective date and constitutes the utility's official copy of the approved tariff sheet on file with the Commission.*

Sec. 10. NAC 703.486 is hereby amended to read as follows:

703.486 1. The Chairman may appoint one or more hearing officers to preside over and conduct hearings or other proceedings, or any portion thereof, in any matter pending before the Commission in which hearing officers are authorized to act pursuant to NRS 703.130.

~~{2.}~~ The Chairman, in his discretion, may appoint an employee of the Commission or a contractor of the Commission to serve as a hearing officer.

~~{3.—Except as otherwise provided in this subsection, if}~~ *The Chairman may reassign a matter from one hearing officer to another hearing officer at any time.*

2. *If* the Chairman appoints a hearing officer, the Chairman retains the right, at any time, to revoke the appointment and to assume responsibility for presiding over and conducting the hearings or other proceedings or to designate another Commissioner or hearing officer to preside over and conduct the hearings or other proceedings. ~~{The Chairman shall not revoke the appointment of a hearing officer during the pendency of a proceeding without good cause.~~

~~—4.—If}~~

3. *Except as otherwise provided in subsection 4, if* the Chairman appoints a hearing officer to preside over and conduct any proceeding involving an application, a petition ~~{, complaint, investigation or rule-making,}~~ *or a complaint*, after the close of all evidentiary hearings in the matter, the hearing officer shall file with the Commission a proposed order that sets forth the findings and conclusions of the hearing officer and the reasons and bases for those findings and conclusions. The proposed order must be served on each party of record. Any party of record may file comments to the proposed order in the same manner that comments may be filed to a proposed order of the Commission pursuant to NAC 703.785.

4. *A proposed order filed by a hearing officer pursuant to subsection 3 must not be served upon parties of record and is not subject to comment by parties of record if the proceeding is:*

(a) A noncontested case;

(b) A contested case that is settled in its entirety by stipulation; or

(c) A proceeding held pursuant to NRS 703.377 and the holder of the certificate, permit or license who is the subject of the proceedings fails to appear.

5. The decisions of a hearing officer are subject to appeal and review by the Commission in the same manner that the decisions of a presiding officer are subject to appeal and review by the Commission pursuant to the provisions of this chapter.

6. Upon review of a decision of a hearing officer, the Commission may affirm or reverse the decision, in whole or in part, and may take any other just and reasonable action with regard to the decision, including, without limitation, declining to act on the decision on an interlocutory basis.

Sec. 11. NAC 703.491 is hereby amended to read as follows:

703.491 1. A person who is not a party to a proceeding may participate in the proceeding as a commenter if:

(a) The person has a direct and substantial interest in the proceeding but the person does not desire to participate in the proceeding as an intervener; or

(b) The person does not have a direct and substantial interest in the proceeding to participate in it as an intervener but the person desires to file written comments concerning issues in the proceeding.

2. To participate in the proceeding as a commenter, the person must file with the Commission a notice of intent to participate as a commenter. If the person files such notice, the Commission will place the person on the service list maintained by the Commission, and the person will receive from the Commission copies of Commission-issued pleadings in the proceeding.

3. Each person who participates in the proceeding as a commenter:

(a) Must be styled a “commenter” in all pleadings;

(b) Is not a party of record; and

(c) Is limited to filing written comments in the proceeding pursuant to subsection 4.

4. ~~At~~ *Before* the beginning of the hearing in the proceeding, each commenter may file with the Commission written comments concerning issues in the proceeding. The written comments will be made part of the record of the proceeding, but the written comments will not be treated as evidence.

5. A commenter is not a party of record to the proceeding, and a commenter shall not take any action that only a party of record may take, including, without limitation, presenting or cross-examining witnesses, conducting discovery, filing a petition for reconsideration or rehearing or seeking judicial review of a decision of the Commission.

6. If, during the pendency of the proceeding, a commenter claims to have a direct and substantial interest in the proceeding and desires to participate in the proceeding as an intervener, the commenter may file a petition for leave to intervene with the Commission pursuant to NAC 703.578 to 703.600, inclusive. If the petition for leave to intervene is filed with the Commission after the applicable period set forth in NAC 703.590, the petition must state a substantial reason for the delay as required by that section.

Sec. 12. NAC 703.5274 is hereby amended to read as follows:

703.5274 1. A person who requests that information, which is in the possession of the Commission and pertains to that person, not be disclosed shall submit to:

(a) The Secretary of the Commission, one copy of the document which contains the information in an unredacted form. The document must be placed in a sealed envelope, and the envelope and each page of the document must be stamped with the word “Confidential.”

(b) The Commission, 10 copies of the document which redacts the information for which the confidential treatment is requested.

2. A request that information not be disclosed must be *filed with the Commission and* served on the Commission’s staff and the Consumer’s Advocate and must:

(a) Describe with particularity the information to be treated as confidential information;

(b) Specify the grounds for the claim of confidential treatment of the information; and

(c) Specify the period during which the information must not be disclosed.

3. Public disclosure of only those specific portions of a filing which contain information for which confidentiality is requested will be withheld or otherwise limited.

4. If the information for which confidentiality is requested is part of an application, petition or other initial filing, the application, petition or filing must comply with the provisions of this section. The Commission’s initial notice issued pursuant to NRS 703.320 and NAC 703.492 will state that certain information contained in the application, petition or filing has been requested to be treated as confidential information.

5. The Commission is responsible for the custody, maintenance, and return or disposal of confidential information in the possession of the Commission and will:

(a) Maintain the confidential information separate and apart from all other records of the Commission; and

(b) Adequately safeguard access to such information and ensure that confidential information is not divulged to unauthorized persons.

6. For the purpose of determining whether to accord confidential treatment to information in accordance with NAC 703.527 to 703.5282, inclusive, a presiding officer may review the information in camera.

7. A closed hearing held before a presiding officer must be held in accordance with the provisions of subsection 3 of NRS 703.196.

8. Notwithstanding the other provisions of this section, the Commission's staff and the Consumer's Advocate are entitled to receive information designated as confidential in accordance with NAC 703.527 to 703.5282, inclusive, if the Commission's staff or the Consumer's Advocate, as appropriate, has executed a protective agreement.

Sec. 13. NAC 703.5282 is hereby amended to read as follows:

703.5282 1. During the pendency of a proceeding, any person who receives information which has been designated as confidential in accordance with NAC 703.527 to 703.5282, inclusive:

(a) Shall not disclose the information unless the confidentiality of the information is waived.

The confidentiality of information shall be deemed to be waived if:

(1) The person who requested that the information not be disclosed makes the information available to the public or otherwise authorizes its disclosure; or

(2) The Commission or presiding officer enters an order which authorizes the disclosure of the information.

(b) May request, at any time, that the Commission or presiding officer make a determination that the disclosure of the information is justified. The person may accompany his request with a sealed copy of the unredacted document or information.

2. The person seeking to have the information protected from disclosure has the burden of proof to demonstrate that the information sought to be disclosed is entitled to that protection.

3. Information which is the subject of an agreement or a protective order will be provided only to the Commission's staff, the Consumer's Advocate, the legal counsel of a party of record and any person who is identified by a party of record as his expert for the purposes of reviewing and analyzing the specific matter related to the confidential information.

4. A person, a party, the legal counsel of a party or the expert designated by a party who:

(a) Violates the procedures of the Commission or presiding officer for protecting information;

(b) Fails to obey a protective order issued by the Commission or the presiding officer;

(c) Violates the terms or conditions of a protective agreement; or

(d) Violates any other prohibition of the disclosure of information designated as confidential in accordance with NAC 703.527 to 703.5282, inclusive,

↪ is subject to the penalties and civil remedies prescribed in NRS 703.380 and 704.630 ~~§~~, *and may be barred from appearing before the Commission.*

Sec. 14. NAC 703.555 is hereby amended to read as follows:

703.555 Except as otherwise provided by a specific regulation:

1. Any party of record against whom a motion is directed may file a response to the motion. A response must be in writing unless made during a hearing. If made during a hearing, a response may be written or oral.

2. A response that is required to be in writing pursuant to subsection 1 must be:

(a) Served upon each party of record.

(b) ~~Filed~~ *Except as otherwise provided in subsection 6 or otherwise directed by the presiding officer, filed* with the Commission no later than ~~7~~ *5 business* days after receipt of service of the motion . ~~[, unless otherwise directed by the presiding officer.]~~

3. A party of record who:

(a) Directs a motion against another party of record; and

(b) Receives a response to that motion pursuant to subsection 1,

↪ may file a reply to the response. A reply filed pursuant to this subsection must be in writing unless made during a hearing. If made during a hearing, a reply may be written or oral. If a party to whom this subsection applies decides not to file a reply to the response, that party shall notify the Commission of the decision so that the Commission or presiding officer may decide the motion on the basis of the pleadings which have already been filed.

4. A reply that is required to be in writing pursuant to subsection 3 must be:

(a) Served upon each party of record.

(b) ~~Filed~~ *Except as otherwise provided in subsection 6 or otherwise directed by the presiding officer, filed* with the Commission no later than 7 days after receipt of service of the response . ~~[, unless otherwise directed by the presiding officer.]~~

5. If a party of record files a reply to a response pursuant to subsection 3, the Commission will or the presiding officer shall consider only those portions of the reply that address directly matters set forth in the response.

6. Unless otherwise directed by the presiding officer, if a motion is filed within 14 days before the date on which the hearing is scheduled to commence, responses to the motion must be filed with the Commission no later than 3 business days after the date of receipt of service

of the motion and replies to the responses must be filed with the Commission no later than 2 business days after the receipt of service of the response.

Sec. 15. NAC 703.565 is hereby amended to read as follows:

703.565 1. Except as otherwise provided in this section, the original and ~~[15]~~ *nine* legible copies of all pleadings must be filed with the Commission.

2. ~~[If a written comment is made, only the original is required to be filed.]~~

~~—3.]~~ The presiding officer may require a party or a commenter to file additional copies if needed.

Sec. 16. NAC 703.573 is hereby amended to read as follows:

703.573 An answer to a petition must:

1. Be in writing;

2. Be written so as to advise the Commission and parties of record fully of the nature of the answer;

3. Contain a separate statement and number for each material element of the answer;

4. Be signed by the answering party or, if represented, by his attorney or other authorized representative;

5. Include the full name, address and telephone number of the answering party; and

6. Be filed with the Commission within ~~[15]~~ *10* days after service of the petition to which the answer is directed, unless the Commission shortens or extends this time.

Sec. 17. NAC 703.580 is hereby amended to read as follows:

703.580 1. Any person who claims to have a direct and substantial interest in a proceeding and desires to participate in it as an intervener must file a petition for leave to intervene with the Commission requesting an order permitting the intervention.

2. A person has a direct and substantial interest in a proceeding if:

- (a) A statute explicitly confers on the person a right to intervene; or
- (b) The person claims an interest relating to the property or transaction which is the subject of the proceeding and the person is so situated that the disposition of the proceeding will, as a practical matter, impair or impede the ability of the person to protect that interest, unless the person is adequately represented by existing parties.

3. A person does not have a direct and substantial interest in a proceeding if the person claims an interest that is:

- (a) Based on a speculative business or marketing plan; ~~{or}~~
- (b) Based solely on a person's involvement in a proceeding in another unrelated docket ~~{}~~;
- (c) *Based on an interest that is irrelevant to the proceeding; or*
- (d) *Based solely on a desire to monitor the proceeding or to obtain information from the proceeding.*

Sec. 18. NAC 703.585 is hereby amended to read as follows:

703.585 ~~{Except as otherwise provided in NAC 703.692, a}~~ A petition for leave to intervene must be in writing and set forth the following:

- 1. The title and docket number of the proceeding in which leave to intervene is sought;
- 2. The name and address of the petitioner and, if represented, the name, address and telephone number of his attorney or other authorized representative;
- 3. A clear and concise statement of the direct and substantial interest of the petitioner in the proceedings and, if the petitioner is an association, all information that is necessary for the petitioner to satisfy the requirements set forth in NAC 703.595;
- 4. The manner in which the petitioner will be affected by the proceedings;

5. A statement as to whether the petitioner intends to present evidence in the proceeding;
and

6. If affirmative relief is sought, a description of the desired relief and the basis for that relief.

Sec. 19. NAC 703.590 is hereby amended to read as follows:

703.590 1. A petition for leave to intervene must be filed with the Commission within any applicable period set in the public notice published in accordance with NAC 703.160.

2. If a petition for leave to intervene is filed after the applicable period, the petition must state a substantial reason for the delay. *The Commission will not grant a petition for leave to intervene that is filed after the applicable period if the delay in filing was due to neglect or unreasonable inaction by the petitioner or his attorney.*

Sec. 20. NAC 703.600 is hereby amended to read as follows:

703.600 When two or more interveners have substantially the same interest and positions, the Commission *will*, or *the* presiding officer ~~[may in order to expedite the hearing,]~~ *shall*, limit the number of interveners who will be permitted to cross-examine, make and argue motions or make objections during the course of the hearing ~~[.]~~ *when such a limitation is appropriate to expedite the hearing.*

Sec. 21. NAC 703.675 is hereby amended to read as follows:

703.675 If a party, other than the Commission's staff or the Consumer's Advocate, fails to appear at the time and place set for a prehearing conference or hearing without prior notification to the Commission or the presiding officer, the Commission will or the presiding officer shall dismiss the party, with or without prejudice, unless the Commission or presiding officer, upon

good cause shown ~~[, recesses the hearing to a future date to enable the party to attend.]~~, *excuses the absence.*

Sec. 22. NAC 703.680 is hereby amended to read as follows:

703.680 1. 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.

2. 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.]~~ *A motion to limit the number of data requests must be filed with the Commission and served upon all parties of record not later than 45 days after the opening of the docket.*

3. Except as otherwise provided in subsection ~~[3.]~~ 4, 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.]~~ *All data requests must also be served upon the Commission's staff assigned to regulatory operations and the Bureau of Consumer Affairs in the Office of the Attorney General.*

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

~~[4.]~~ 5. 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.]~~ 6. 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.]~~ 7. 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.]~~ 8. Except as otherwise provided in subsection ~~[8.]~~ 9, 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.]~~ 9. 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.

~~9.10.~~ **10.** 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.

~~10.11.~~ **11.** 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.

~~11.12.~~ **12.** 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}~~ **13.** The parties may agree in writing to alternative discovery procedures and time frames. 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}~~ **14.** 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}~~ **15.** 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}~~ **16.** 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.~~ 17. 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.

Sec. 23. NAC 703.685 is hereby amended to read as follows:

703.685 Except as otherwise provided by *a* specific regulation:

1. All testimony to be considered by the Commission or presiding officer at a formal hearing must be sworn testimony, except for matters of which official notice is taken or matters entered by stipulation.
2. Before testifying at the hearing, each witness shall declare, under oath or affirmation, that the testimony the witness is to give at the hearing will be the truth, the whole truth and nothing but the truth.
3. At the hearing, each party may cross-examine an opposing witness in accordance with NRS 233B.123. After cross-examination of the witness, redirect examination of the witness is limited to matters raised during cross-examination. After redirect examination of the witness, recross-examination of the witness is limited to matters raised during redirect examination.
4. *If the presiding officer determines that a witness lacks specific experience, expertise or direct knowledge to testify on the subject on which the witness is testifying, the presiding officer may strike the testimony of the witness and dismiss the witness from testifying in the proceeding.*

Sec. 24. NAC 703.695 is hereby amended to read as follows:

703.695 1. Applicants, petitioners or complainants may present their evidence first at a hearing. Then any parties of record opposing the application, petition or complaint may present their evidence. The presiding officer shall designate the stage of the proceeding at which each

intervener or member of the Commission's staff may be heard. Evidence must be received in the following order unless the presiding officer determines that a special circumstance requires a different order:

(a) Upon an application or petition:

- (1) Applicant or petitioner;
- (2) Commission's staff;
- (3) Interveners; and
- (4) Rebuttal by the applicant or petitioner.

(b) Upon a complaint:

- (1) Complainant;
- (2) Respondent;
- (3) Commission's staff;
- (4) Interveners; and
- (5) Rebuttal by complainant.

(c) Upon a complaint by the Commission or an order to show cause:

- (1) Commission's staff;
- (2) Respondent;
- (3) Interveners; and
- (4) Rebuttal by Commission's staff.

2. In addition to any cross-examination by the parties pursuant to NAC 703.685, witnesses may be cross-examined by the presiding officer, any Commissioner, ~~the Deputy Commissioner~~ and the administrative assistants and legal counsel for the Commission.

3. If there is more than one applicant, petitioner or complainant, the witnesses of all applicants, petitioners or complainants may present direct testimony on an issue before any of these witnesses may be cross-examined on that issue, unless otherwise ordered by the presiding officer.

4. If two or more matters are set for hearing at the same time and place, the matter having the lowest docket number will be heard first, unless the presiding officer directs a different order for the convenience of the parties.

Sec. 25. NAC 703.702 is hereby amended to read as follows:

703.702 1. All evidence offered in a proceeding, including, without limitation, the testimony of a witness, must be relevant.

2. For the purposes of this section, evidence is “relevant” only if the evidence ~~has~~:

(a) Has any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence ~~is~~; and

(b) Is directly related to the subject matter of the proceeding.

Sec. 26. NAC 703.785 is hereby amended to read as follows:

703.785 1. If the Commission determines that any matter or proceeding would be best handled by the issuance of a proposed order, the Commission will issue such an order and the parties will be so notified.

2. Any party of record to the proceeding may file a petition requesting that a proposed order be issued by the Commission. The petition must be filed with the Commission and served upon all parties of record and must set forth the reasons for issuing such a proposed order and state that it will promote the administration of justice and will not cause unreasonable delay in the

final determination of the proceeding. Objections to the petition may be served and filed by other parties of record within 5 days after service of the petition.

3. Upon receipt of a proposed order, any party of record may file exceptions to it within ~~{20}~~ **10** days after the date of service unless a greater or lesser time is designated by the Commission at the time of issuance of the proposed order. An exception to the proposed order must be in writing and include:

- (a) A clear statement of the matter to which the exception is made;
- (b) The grounds which support the exception; and
- (c) A suggested correction of the matter which is excepted.

4. A copy of the exception must be served upon all parties of record by the party making the exception. The Commission will hold a hearing on the matter which is excepted if the public interest would be served by a hearing.

5. A party may answer an exception within ~~{10}~~ **5** days after service of it upon him. An answer to an exception must be filed with the Commission and served upon all parties of records.

6. After full consideration of the proposed order, the exceptions, answers and briefs, the Commission will affirm its proposed order by service of an order of affirmance upon the parties or if it deems the exceptions well taken, will revise the proposed order and issue a final order differing from the proposed order.

7. The proposed order is not a final or official order of the Commission subject to appeal unless it becomes an official order of the Commission by affirmance, in which event the date of the order of affirmance becomes the date of the issuance of the order.

8. A certified order of the Commission will be served by the Secretary by mailing a copy of the order to the parties of record or by personal service on them. If a party desires additional copies of the order, the Commission must be notified of the number of copies desired.

Sec. 27. NAC 703.801 is hereby amended to read as follows:

703.801 1. A petition for reconsideration must specifically:

(a) Identify each portion of the challenged order which the petitioner deems to be unlawful, unreasonable or based on erroneous conclusions of law or mistaken facts; and

(b) Cite those portions of the record, the law or the rules of the Commission which support the allegations in the petition. The petition may not contain additional evidentiary matter or require the submission or taking of evidence.

2. A petition for rehearing must:

(a) Allege that an order is in error because of an incomplete or inaccurate record.

(b) Specifically set forth the nature and purpose of any additional evidence to be introduced.

(c) Show that such evidence is not merely cumulative and could not have been introduced at the hearing.

3. A petition for reconsideration or rehearing of an order must be filed with the Commission and served upon all parties of record within ~~[15]~~ *10 business* days after the effective date of the order.

4. An answer to a petition for reconsideration or rehearing may be filed with the Commission by any party of record in the proceeding within ~~[15]~~ *10 business* days after the filing of the petition. The answer must be confined to the issues contained in the petition. The answer must be served upon all parties of record. Proof of service must be attached to the answer.

5. The Commission will grant or deny a petition for reconsideration or rehearing within 40 days after the date of its filing. If no action is taken by the Commission within this time, the petition shall be deemed denied.

6. Unless otherwise ordered by the Commission, the filing of a petition for reconsideration or rehearing or the granting of such a petition does not excuse compliance with, or suspend the effectiveness of the challenged order.

7. If the Commission grants a petition for reconsideration, it will reexamine the record and order with regard to the issues on which reconsideration was granted and issue a modified final order or reaffirm its original order.

8. If the Commission grants a petition for rehearing, it will, within 20 days thereafter, conduct a hearing to allow the parties to present additional evidence and will issue a modified final order or reaffirm its original order.

9. A modified final order of the Commission issued upon reconsideration or rehearing will incorporate those portions of the original order which are not changed or modified by the modified final order. A modified final order is the final decision of the Commission.

Sec. 28. Chapter 704 of NAC is hereby amended by adding thereto a new section to read as follows:

“Presiding officer” has the meaning ascribed to it in NAC 703.090.

Sec. 29. NAC 704.005 is hereby amended to read as follows:

704.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 704.0052 to 704.009, inclusive, ***and section 28 of this regulation*** have the meanings ascribed to them in those sections.

Sec. 30. NAC 704.0097 is hereby amended to read as follows:

704.0097 The Commission *or presiding officer* may ~~permit~~ *allow* deviation from any provision of this chapter if:

1. Good cause *for the deviation* appears; ~~and~~
2. *The person requesting the deviation provides a specific reference to each provision of this chapter from which the deviation is requested; and*
3. The Commission finds that the deviation is in the public interest and is not contrary to statute.

Sec. 31. NAC 704.020 is hereby amended to read as follows:

704.020 1. All rules, regulations, and schedules of rates must be on 8 1/2 by 11-inch sheets of paper. They must be typewritten, printed ~~h~~ or reproduced by some other process on paper of good quality.

2. Each sheet must be numbered in the upper right-hand corner beginning with “Original Sheet ~~P.S.C.N.~~ *P.U.C.N.* No. 1.” When a new sheet is filed cancelling an original sheet, it must read, “First revised sheet ~~P.S.C.N.~~ *P.U.C.N.* No. 1 cancels original sheet ~~P.S.C.N.~~ *P.U.C.N.* No. 1,” “Second revised sheet ~~P.S.C.N.~~ *P.U.C.N.* No. 1 cancels first revised sheet ~~P.S.C.N.~~ *P.U.C.N.* No. 1,” and so forth.

3. The name of the operating company under which the certificate is issued must appear in the upper left-hand corner. The notations “Issued: (date issued),” “Effective: (date effective),” and “Issued by: (name & title)” must appear in the lower left-hand corner.

4. A margin of at least five-eighths of an inch must be allowed at the left-hand edge of each sheet.

5. A 2-inch square must be left in the lower right-hand corner of each page for the Commission’s use.

6. No change in writing or erasure may be made in any regulation or schedule of rates.

Sec. 32. NAC 704.622 is hereby amended to read as follows:

704.622 1. A utility whose rates are subject to the jurisdiction of the Commission as set forth in NRS 704.095, and whose gross annual revenues for the past 12 months did not exceed \$100,000, may elect to change its rates and charges pursuant to this section or NAC 704.580.

2. The utility may request the assistance of the staff in changing the rates and charges of the utility by mailing a letter to the staff requesting that the staff conduct an audit of the books of the utility and a review of the utility's expenditures and operations to determine the appropriate levels of rates and charges. A request for the assistance of the staff must be made within 45 days after the last day of the test year selected by the utility to be audited.

3. Upon receipt of a request for assistance from the utility, the staff shall initiate an audit of the books of the utility and a review of its expenditures and operations.

4. If, following the audit and a determination of recommended rates and charges, the staff determines that the rates and charges of the utility need to be changed, the staff shall prepare, on behalf of the utility, an application which requests that such recommended rates and charges be put into effect. The staff shall provide a copy of the application to the utility.

5. ~~[The staff, with the cooperation of the utility, shall meet informally with the customers of the utility in the service territory of the utility to receive comments from the customers on the quality of service that the customers are receiving and the rates and charges that the staff is recommending. The utility shall mail a notice of the meeting that has been prepared by the staff to all customers in such a manner as to ensure that the customers are notified of the meeting not less than 10 days before the date of the meeting.]~~

~~6.]~~ If the utility elects to proceed with the application as prepared by the staff, the utility shall file the application with the Commission within 180 days after the last day of the test year selected. If the utility elects not to proceed with the application in the form suggested by the staff, the utility may not file an application pursuant to NAC 704.580 or make another request for the assistance of the staff for at least 1 year after the date of the previous request for assistance.

~~7.]~~ 6. The Commission will issue a public notice of an application that has been prepared by the staff and filed by the utility pursuant to subsection ~~6.]~~ 5. If no notice of intent to intervene has been filed by the Bureau of Consumer Protection of the Office of the Attorney General and no petition for leave to intervene has been filed by any interested and affected person by the deadline set by the Commission, the staff shall present the application at a meeting of the Commission.

~~8.]~~ 7. If a notice of intent to intervene is filed or a petition for leave to intervene is granted, the Commission shall set the matter for an evidentiary hearing. An evidentiary hearing held pursuant to this subsection is subject to the provisions of subsection 3 of NAC 704.620.

Sec. 33. NAC 703.282, 703.395, 703.692, 704.425, 704.430, 704.435 and 704.440 are hereby repealed.

TEXT OF REPEALED SECTIONS

703.282 Proceedings. (NRS 233B.050, 703.025, 704.210) Except as otherwise provided in NAC 703.280 to 703.296, inclusive, any proceeding undertaken by the Commission pursuant

to NAC 703.280 to 703.296, inclusive, must be conducted by a presiding Commissioner. All such proceedings must be conducted in accordance with the procedures set forth in NAC 703.280 to 703.296, inclusive, and the provisions of this chapter which are not in conflict with those sections.

703.395 Tariff sheets which do not increase rates. (NRS 703.025, 704.210)

1. A new tariff sheet covering a service or commodity not furnished before or a changed tariff sheet not increasing or resulting in an increase or resulting in a decrease in any rate, toll, rental or charge may be filed by the letter of advice designated in NAC 703.390. These tariff sheets, unless suspended by the Commission either on complaint or on its own motion, become effective not less than 30 days after filing pursuant to NRS 704.100.

2. Upon application in the letter of advice and for good cause shown, the Commission may authorize tariff sheets which do not result in an increase in rates or charges to become effective on less than the 30-day statutory period. If the sheets are authorized, the Commission will insert the effective date on each tariff sheet affected.

3. A copy of the tariff sheet indicating that it has been accepted for filing and designating the effective date will be returned to the utility and constitutes the utility's official copy of the sheets filed with the Commission.

703.692 Oral petition for leave to intervene. (NRS 703.025, 704.210) An oral petition for leave to intervene at a hearing may be granted by the presiding officer for good cause shown.

704.425 Electric utility prohibited from selling energy for certain exterior lighting. (NRS 703.025, 704.210)

1. No public utility furnishing electrical energy to customers within this State may, at any time, furnish or sell to any customer electrical energy which is caused or permitted to be used for exterior advertising, billboards, decorative, or other nonessential lighting during daylight hours.

2. The provisions of NAC 704.425 to 704.440, inclusive, must not be construed to prohibit lighting required by law or public safety.

704.430 Notice to customer of prohibited use. (NRS 703.025, 704.210) Within 10 days after June 20, 1977, and upon discovering that any of its customers is using electrical energy for any of the purposes set forth in subsection 1 of NAC 704.425, a public utility shall serve written notice upon the customer that electrical service to the customer will be discontinued 72 hours from the time of service of the notice unless the customer ceases and desists from using electrical energy for those purposes.

704.435 Discontinuation of electrical service. (NRS 703.025, 704.210) Each public utility shall discontinue service to those customers who remain in violation of the prohibitions set forth in NAC 704.425 to 704.440, inclusive, more than 72 hours after being served with notice pursuant to the provisions of NAC 704.430, unless the customer shows good cause to the public utility why the lighting in question cannot be terminated without affecting essential interior lighting or other electrical operations. In that case, the customer must be afforded a reasonable period, not to exceed 15 days, in which to make the changes necessary to terminate the prohibited nonessential exterior lighting during daylight hours.

704.440 Resumption of electrical service. (NRS 703.025, 704.210) A public utility shall resume service to customers whose service has been disconnected pursuant to the provisions of NAC 704.425 to 704.440, inclusive, upon receipt of the appropriate reconnection charge and a signed assurance of future compliance by the customer.