

LCB File No. R021-07

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

(This regulation was previously adopted as T026-06)

Explanation- Matter in *italics* is new; matter in ~~strickthrough~~ is material to be omitted.

Section 1. NAC 703.491 is hereby amended to read as follows:

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 *or make an oral presentation at the discretion of the presiding officer* 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 *and making an oral presentation in the proceeding at the discretion of the presiding officer* in the proceeding pursuant to subsection 4.

4. *Ten days prior to ~~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.~~ *Commenters may make presentations before the Commission in the hearing at the discretion of the presiding officer. Any written or oral comments made by commenters will be made part of the record of the proceeding, but 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. *In the event that a commenter makes an oral or written representation of fact concerning a party to a proceeding, the presiding officer will provide that party with a reasonable opportunity to make an oral or written presentation to respond to or clarify the representation made by the commenter.*

~~6.~~ 7. 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.

Section 2. NAC 703.580 is hereby amended to read as follows:

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 *in whole or in substantial part* is:

(a) Based on a speculative business or marketing plan;

(b) *Based on a person's involvement in a prior, pending or planned competitive solicitation or other procurement or supply process;*

~~(b)~~(c) Based solely on a person's involvement in a proceeding in another unrelated docket;

~~(e)~~(d) Based on an interest that is irrelevant to the proceeding; or

~~(d)~~(e) Based solely on a desire to monitor the proceeding or to obtain information from the proceeding.

4. *Nevada-based groups or organizations, defined as groups or organizations who have members and an office in Nevada, claiming to represent the public interest of Nevada citizens may participate as interveners to a proceeding at the discretion of the presiding officer if:*

(a) *the interest asserted by the group is significantly or substantially related to issues material to the proceeding;*

(b) *the interest asserted is not already represented by another party; and*

(c) *there is no other Nevada entity with subject matter jurisdiction to provide redress.*

↳ *The presiding officer has the discretion to determine the limits of participation by these groups or organizations permitted to intervene in a proceeding, including whether intervention will be permitted for some or all of the issues to be decided in the proceeding.*