

LCB File No. R076-07

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

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Investigation and rulemaking to adopt, amend)
and/or repeal regulations regarding applications for)
permits to construct utility facilities pursuant to the) Docket No. 07-04026
Utility Environmental Protection Act.)
_____)

**NOTICE OF INTENT TO ACT UPON A REGULATION,
NOTICE OF WORKSHOP AND NOTICE OF HEARING FOR THE
ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS OF THE PUBLIC
UTILITIES COMMISSION OF NEVADA**

On May 9, 2007, the Public Utilities Commission of Nevada (“Commission”) opened an investigation and rulemaking to adopt, amend and/or repeal regulations regarding applications for permits to construct utility facilities pursuant to the Utility Environmental Protection Act. This matter was designated as Docket No. 07-04026.

The Commission will hold a public **WORKSHOP** at **10:00 A.M.** on **TUESDAY, SEPTEMBER 25, 2007**, at the offices of the Commission, Hearing Room A, 1150 East William Street, Carson City, Nevada, 89701 and via videoconference to Hearing Room A, 101 Convention Center Drive, Suite 250, Las Vegas, Nevada, 89109. The purpose of the workshop is to solicit comments from all interested persons on applications for permits to construct utility facilities pursuant to the Utility Environmental Protection Act.

The Commission will hold a public **HEARING** at **10:00 A.M.** on **THURSDAY, SEPTEMBER 27, 2007**, at the offices of the Commission, Hearing Room A, 1150 East William Street, Carson City, Nevada, 89701 and via videoconference to Hearing Room A, 101 Convention Center Drive, Suite 250, Las Vegas, Nevada, 89109. The purpose of the hearing is

to receive comments from all interested persons regarding the adoption, amendment, and repeal of regulations that pertain to chapter 703 of the Nevada Administrative Code. If no person who is directly affected by the proposed regulations appears at the hearing to request time to make an oral presentation, the Commission may proceed to act upon any written submissions.

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

- The proposed regulations pertaining to applications for permits to construct utility facilities pursuant to the Utility Environmental Protection Act are needed to streamline the application process by correlating the regulatory requirements to the statutory requirements.
- The revised text of the proposed regulations prepared by the Legislative Counsel Bureau pursuant to NRS 233B.063 are available at the Commission and Legislative Counsel Bureau as LCB File No. R076-07 (August 7, 2007).
- The proposed regulations will have beneficial immediate and long-term economic effects on the businesses that they are to regulate and on the public by streamlining the application process.
- The Commission will use the simplified Delphi method in determining the impact on small businesses, whereby experts review the text of the proposed regulations and determine the likely impact of the proposed regulations on small businesses. These experts share their responses with each other and form a consensus view.
- There will be no additional cost to the Commission for the enforcement of the proposed regulations.
- The proposed regulations do not overlap or duplicate any federal, state, or local regulations.

- The proposed regulations are not required pursuant to federal law.
- The proposed regulations are not more stringent than a federal regulation that regulates the same activity.
- The proposed regulations do not 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 workshop and hearing or may address their comments, data, views, or arguments in written form to the Commission at 1150 East William Street, Carson City, Nevada, 89701 or 101 Convention Center Drive, Suite 250, Las Vegas, Nevada, 89109 on or before **FRIDAY, SEPTEMBER 21, 2007**.

A copy of this notice and the proposed regulations to be adopted, amended, or repealed 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 to be adopted, amended, or repealed will be available at 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 Administrative Regulations (LCB File No. R076-07), 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 it is deemed necessary. This does not apply to a public body subject to the Open Meeting Law.

Upon adoption of any regulation, the Commission, 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 and against its adoption or 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) _____

LCB File No. R076-07

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

Docket No. 07-04026

Proposed Regulation for the Construction of Utility Facilities

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. *Pursuant to NRS 704.870(2)(a), an application for a permit to construct a utility facility where a federal agency is required to conduct an environmental analysis of the proposed utility facility shall contain the following information in the order listed:*

1. A general description of the location of the utility facility, including:

(a) A regional map that identifies the location of the utility facility;

(b) Any alternative location(s); and

(c) The reason(s) why the primary location is best suited for the utility facility.

2. A general description of the utility facility, including:

(a) The size and nature of the proposed utility facility;

(b) The natural resources that will be used during the construction and operation of the utility facility;

3. A summary of any studies which the applicant anticipates will be made of the environmental impact of the utility facility, including a copy of all corresponding applications to the respective federal agencies.

4. A copy of the public notice of the application and proof of the publication of the public notice, as required by NRS 704.870(4).

5. Proof that a copy of the application has been submitted to the Nevada State Clearinghouse to enable agency review and comments.

Sec. 3. Pursuant to NRS 704.870(1), an application for a permit to construct a utility facility where no federal agency is required to conduct an environmental analysis of the proposed utility facility or an amended application for a permit to construct a utility facility where a federal agency has issued its final environmental analysis shall contain the following information in the order listed:

1. A description of the location of the utility facility, including:

(a) A general description of the location of the utility facility, including a regional map that identifies the location of the utility facility;

(b) A legal description of the site of the utility facility with the exception of electric lines, gas transmission lines, and water and wastewater lines, for which only a detailed description of the site is required; and

(c) Appropriately scaled site plan drawings of the utility facility site, vicinity maps, and routing maps.

2. A description of the utility facility, including:

(a) The size and nature of the utility facility;

(b) The natural resources that will be used during the construction and operation of the utility facility;

(c) Layout diagrams of the utility facility and its associated equipment; and

(d) Scaled diagrams of the utility facility structures.

3. A summary of any studies which have been made of the environmental impact of the facility. A copy or copies of the studies must be included.

4. A description of any reasonable alternate location or locations for the utility facility, a description of the comparative merits or detriments of each location submitted, and a statement of the reasons why the location is best suited for the utility facility.

5. A copy of the public notice of the application or amended application and proof of the publication of the public notice, as required by NRS 704.870(4).

6. Proof that a copy of the application or amended application has been submitted to the Nevada State Clearinghouse to enable agency review and comments.

7. An explanation of the nature of the probable effect on the environment, including:

(a) A summary of any studies described in subsection 3, if applicable; and

(b) An environmental statement that includes:

(1) The name, qualifications, professions, and contact information of each person with primary responsibility for the preparation of the environmental statement;

(2) The name, qualifications, professions, and contact information of each person who has provided comments or input in the preparation of the environmental statement;

(3) A bibliography of materials used in the preparation of the environmental statement;

(4) A description of the environmental characteristics of the region existing when the application is made as well as a description of the environmental impact that the construction and operation of the utility facility will have on the region; and

(5) A description of the significant effects on the quality of the environment for humans and the means to mitigate any adverse environmental impacts.

The data and analyses in the descriptions must be commensurate with the significance of the anticipated impacts.

8. An explanation of the extent to which the utility facility is needed to ensure reliable utility service to customers in this State, including:

(a) If the utility facility was approved in a resource plan or an amendment to a resource plan, a reference to the previous Commission approval, or

(b) If the utility facility was not approved in a resource plan or an amendment to a resource plan, a description of the extent to which the utility facility:

(1) Will provide utility service to customers in Nevada;

(2) Will enhance the reliability of utility service in Nevada; and

(3) Will achieve interstate benefits to utility service, if applicable.

9. An explanation of how the need for the facility as described in subsection 7 balances any adverse effect on the environment as described in subsection 6.

10. An explanation of how the facility represents the minimum adverse effect on the environment, including:

(a) The state of available technology;

(b) The nature of various alternatives; and

(c) The economics of various alternatives.

11. An explanation of how the location of the facility as proposed conforms to applicable state and local laws and regulations, including a list of all permits, licenses and approvals required by federal, state and local statutes, regulations and ordinances. The explanation should include a list that indicates:

a. Which permits, licenses and approvals the applicant has obtained, including copies thereof, and

b. Which permits, licenses and approvals the applicant is in the process of obtaining in order to commence to construct the utility facility. The applicant shall provide an estimated timeline for obtaining these permits, licenses and approvals.

12. An explanation of how the facility will serve the public interest, including:

(a) The economic benefits that the utility facility will bring to the applicant, Nevada, and any other state;

(b) The nature of the probable effect on the environment in Nevada and any other state if the utility facility is constructed; and

(c) The nature of the probable effect on the public health, welfare, and safety of residents of Nevada and any other state if the utility facility is constructed.

Sec. 4. NAC 703.420 is hereby repealed.

Sec. 5. NAC 703.4245 is hereby repealed.

Sec. 6. NAC 703.4255 is hereby repealed.

TEXT OF REPEALED SECTIONS

NAC 703.420 Application for permit and amended application. (NRS 703.025, 704.210, 704.870) A public utility or person which applies for a permit to construct a utility facility must submit an application and, if required by subsection 2 of NRS 704.870, an amended application, with the following information in the order listed:

1. A cover sheet which includes:

(a) The name of the applicant;

(b) The name of the proposed utility facility;

(c) The name, address and telephone number of a person who may be contacted for additional information;

(d) A one-paragraph abstract of the environmental statement required pursuant to subsection 4; and

(e) A copy of the public notice of the application and proof of the publication of the public notice, as required by NRS 704.870.

2. A summary which includes:

(a) A general description of the proposed utility facility;

(b) A general description of the location of the proposed utility facility, including a regional facility map that identifies the location of the proposed utility facility or a reference to any such map;

(c) A description of the natural resources that will be affected by, or required to be used in, the construction or operation of the proposed utility facility;

(d) A legal description of the site of the proposed utility facility with the exception of electric lines, gas transmission lines, and water and sewer lines, for which only a detailed description must be submitted; and

(e) The major conclusions of the environmental statement required pursuant to subsection 4 and any areas of controversy, issue or concern.

3. A detailed description of the proposed utility facility which includes:

(a) Appropriately scaled site plan drawings of the facility site, vicinity maps and routing maps;

(b) Layout diagrams of the proposed utility facility and its associated equipment;

(c) A description of the equipment that will be included in the proposed utility facility; and

(d) Scaled diagrams of the structures involved in the proposed utility facility.

4. An environmental statement that demonstrates the nature of the probable effect on the environment, after mitigation, if the proposed utility facility is constructed and demonstrates that the proposed utility facility represents the minimum adverse effect on the environment considering the state of available technology and the nature and economics of the various alternatives. The environmental statement must include an evaluation and comparison of all reasonable alternative locations for the proposed utility facility, an evaluation and comparison of all reasonable designs for the proposed utility facility, an evaluation of the effect of a decision by the Commission to deny the application and maps of appropriate scale showing all reasonable locations. The evaluation of all locations and designs must include:

(a) A description of the environmental characteristics of the region in sufficient detail to provide an understanding of the environment existing when the application is made and the impact that each alternative would have on that environment. The data and analyses in the description must be commensurate with the significance of the anticipated impacts.

(b) An evaluation of the significant effects on the quality of the environment for humans, significant environmental impacts, the means to mitigate adverse environmental impacts and, as appropriate, the requirements for energy and natural or nonrenewable resources.

(c) A list of the reasons that the primary location and design selected by the applicant are best suited for the proposed utility facility.

(d) A list and summary of all studies that have been made of the environmental impact of the proposed utility facility and its alternatives.

(e) An analysis and comparison of the costs and benefits associated with the proposed utility facility and the various alternatives.

(f) A description of the natural resources that will be:

(1) Required for the construction or operation of the proposed utility facility and its alternatives; or

(2) Otherwise affected by the construction or operation of the proposed utility facility and its alternatives.

(g) The name, qualifications, professions and contact information of each person with primary responsibility for the preparation of the environmental statement and of each person who has provided comments or input in the preparation of the statement and a bibliography of materials used in the preparation of the environmental statement.

5. If the application is for a water, sewer or gas utility facility, an explanation of the extent to which the proposed utility facility will ensure reliable utility service to customers in this State.

6. If the application is for an electric utility facility and the proposed utility facility is not approved in a resource plan or an amendment to a resource plan, an explanation of the extent to which the proposed utility facility will ensure reliable utility service to customers in this State.

The explanation must include a description of the extent to which the proposed utility facility:

(a) Will provide capacity, energy or ancillary services to customers in this State for a prolonged period;

(b) Will enhance the reliability of electricity in this State; and

(c) Is required to ensure the reliability of the Western Interconnection.

7. An explanation of how the need for the proposed utility facility balances any adverse effect on the environment.

8. A list of all federal, state, regional and local agencies whose approval of the proposed utility facility is required. The list must:

(a) Include the agency's name, address, telephone number and the name of a contact person within the agency;

(b) Be correct as of the date the application is submitted to the Commission;

(c) Include the status of each required approval; and

(d) Be amended as any deletions or additions are required in the list because of changes in federal, state, regional or local laws or changes in the requirements of any other permitting entity.

9. Information regarding the permits required for the proposed utility facility, including:

(a) A description of each permit required for the proposed utility facility;

(b) Copies of permit applications and permits received;

(c) The date, time and location of hearings or environmental reviews, if applicable; and

(d) Copies of environmental reviews, if applicable.

10. Information demonstrating that the proposed utility facility will serve the public interest

NAC 703.4245 Factors for determining whether need for proposed facility balances any adverse effect on environment. (NRS 703.025, 704.210, 704.890) In determining whether the need for a proposed utility facility balances any adverse effect on the environment, the Commission will consider:

1. The nature of the probable effect on the environment, after mitigation, caused by the construction or operation of the proposed utility facility;

2. The social and economic conditions of nearby inhabitants;

3. The effect on the public health, welfare or safety if the proposed utility facility is constructed; and

4. Any other factors that the Commission determines to be relevant.

NAC 703.4255 Factors for determining whether proposed facility will serve public interest. (NRS 703.025, 704.210, 704.890) In determining whether a proposed utility facility

will serve the public interest, the Commission will consider:

1. The benefits that the proposed utility facility will bring to the applicant and to this State;
2. The economic effects of the proposed utility facility;
3. The effect on the public health, welfare or safety if the proposed utility facility is constructed; and
4. Any other factors that the Commission determines to be relevant.