

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

LCB File No. R076-07

August 7, 2007

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

AUTHORITY: §§1-7, NRS 703.025 and 704.870.

A REGULATION relating to utility facilities; revising provisions governing the permitting and construction of such facilities; 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. *An application filed with the Commission pursuant to paragraph (a) of subsection 2 of NRS 704.870 for a permit to construct a utility facility where a federal agency is required to conduct an environmental analysis of the proposed utility facility must contain the following information in the order listed:*

- 1. A general description of the location of the proposed utility facility, including:
 - (a) A regional map that identifies the location of the proposed utility facility;*
 - (b) Any alternative locations for the proposed utility facility; and*
 - (c) The reasons why the location identified in paragraph (a) is best suited for the proposed utility facility.**
- 2. A general description of the proposed utility facility as required by subsection 2 of NRS 704.870, including:
 - (a) The size and nature of the proposed utility facility; and**

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

3. A summary of any studies which the applicant anticipates will be made of the environmental impact of the proposed utility facility as required by subsection 2 of NRS 704.870, including a copy of all corresponding applications filed with appropriate federal agencies.

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

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

Sec. 3. An application filed with the Commission pursuant to subsection 1 of NRS 704.870 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 filed with the Commission pursuant to paragraph (b) of subsection 2 of NRS 704.870 for a permit to construct a utility facility where a federal agency has issued its final environmental assessment or environmental impact statement relating to the construction of the proposed utility facility, must contain the following information in the order listed:

1. A description of the location of the proposed utility facility as required by subsection 1 of NRS 704.870, including:

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

(b) A legal description of the site of the proposed 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 proposed utility facility, vicinity maps and routing maps.

2. A description of the proposed 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 proposed utility facility;

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

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

3. A copy and summary of any studies which have been made of the environmental impact of the proposed utility facility as required by subsection 1 of NRS 704.870.

4. A description of any reasonable alternate locations for the proposed 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 proposed utility facility, as required by subsection 1 of NRS 704.870.

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 subsection 4 of NRS 704.870.

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

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

(a) A reference to 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 at the time the application or amended application is filed with the Commission as well as a description of the environmental impact that the construction and operation of the proposed 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 proposed utility facility is needed to ensure reliable utility service to customers in this State, including:

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

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

(1) Provide utility service to customers in this State;

(2) Enhance the reliability of utility service in this State; and

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

9. An explanation of how the need for the proposed utility facility as described in subsection 8 balances any adverse effects on the environment as described in subsection 7.

10. An explanation of how the proposed utility 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 proposed utility facility 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 must include a list that indicates:

- (a) All permits, licenses and approvals the applicant has obtained, including copies thereof; and*
- (b) All permits, licenses and approvals the applicant is in the process of obtaining to commence construction of the proposed utility facility. The applicant shall provide an estimated timeline for obtaining these permits, licenses and approvals.*

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

- (a) The economic benefits that the proposed utility facility will bring to the applicant, this State and any other state;*
- (b) The nature of the probable effect on the environment in this State and any other state if the proposed utility facility is constructed; and*

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

Sec. 4. NAC 703.415 is hereby amended to read as follows:

703.415 The provisions of NAC 703.415 to 703.427, inclusive, *and sections 2 and 3 of this regulation* apply to an application for a permit to construct a utility facility as defined in NRS 704.860. The requirements of NAC 703.415 to 703.427, inclusive, *and sections 2 and 3 of this regulation* are in addition to other regulations pertaining to pleadings.

Sec. 5. NAC 703.417 is hereby amended to read as follows:

703.417 As used in NAC 703.415 to 703.427, inclusive, *and sections 2 and 3 of this regulation*, unless the context otherwise requires, the words and terms defined in NRS 704.834 to 704.860, inclusive, and NAC 703.4175 have the meanings ascribed to them in those sections.

Sec. 6. NAC 703.427 is hereby amended to read as follows:

703.427 1. Any construction permit issued pursuant to NAC 703.415 to 703.427, inclusive, *and sections 2 and 3 of this regulation* expires 5 years after the date of final action by the Commission unless during that period the applicant has commenced to construct the utility facility and has diligently pursued that construction. In computing the 5-year period, the time the construction of the utility facility is delayed or made impractical because of legal action against the applicant will be excluded.

2. The applicant may apply for renewal of a construction permit at any time before its expiration. The Commission will renew the permit upon a showing of good cause.

Sec. 7. NAC 703.420, 703.4245 and 703.4255 are hereby repealed.

TEXT OF REPEALED SECTIONS

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.

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.

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.