

LCB File No. R136-07

PROPOSED REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA

Docket No. 07-06016

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

AUTHORITY: SECTION 91(1) OF A.B. 518 (2007).

[NEW & AMENDED DEFINITIONS]

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

Sec. 2. *“Alternative technology” has the meaning ascribed to it in section 27(5) of AB 518.*

Sec. 3. *“Business line service” has the meaning ascribed to it in section 3 of AB 518.*

Sec. 4. *“Competitive supplier” has the meaning ascribed to it in section 4 of AB 518.*

Sec. 5. *“Incumbent local exchange carrier” has the meaning ascribed to it in section 6 of AB 518.*

Sec. 6. *“Telecommunication” has the meaning ascribed to it in section 11 of AB 518.*

Sec. 7. NAC 704.0055 is hereby amended to read as follows.

“Basic network service” has the meaning ascribed to it in section 2 of AB 518.

Sec. 8. NAC 704.0065 is hereby amended to read as follows.

“Competitive service” means a service which is provided by a *small-scale* provider of last resort ~~of basic service~~ and which has been classified as a competitive service pursuant to NAC 704.6806 to 704.6808, inclusive.

Sec. 9. NAC 704.0068 is hereby amended to read as follows.

“Deregulated service” means a service *which is provided by a small-scale provider of last resort* which is determined by the Commission to be fully exempt from regulation *or which is exempt as a matter of law.*

Sec. 10. NAC 704.00862 is hereby amended to read as follows.

“Interexchange carrier” has the meaning ascribed to it in section 7 of AB 518.

Sec. 11. NAC 704.0075 is hereby amended to read as follows.

“Discretionary service” means a service that is provided by a *small-scale* provider of last resort ~~[of basic service]~~ and has been classified as a discretionary service pursuant to NAC 704.6806 to 704.6808, inclusive.

Sec. 12. NAC 704.00876 is hereby amended to read as follows.

“Provider of last resort ~~[of basic service]~~” *has the meaning ascribed to it in section 9 of AB 518.*

Sec. 13. NAC 704.00882 is hereby amended to read as follows.

“*Small-scale* provider of last resort ~~[of basic service]~~” *has the meaning ascribed to it in section 10 of AB 518.*

Sec. 14. NAC 704.00878 is hereby amended to read as follows.

“*Telecommunication [P]provider*” ~~“Provider of telecommunication service”~~ *or “telephone company” has the meaning ascribed to it in section 12 of AB 518.*

Sec. 15. NAC 704.00884 is hereby amended to read as follows.

“Telecommunication service” *or “telephone service”* has the meaning ascribed to it in section 13 of AB 518

Sec. 16. NAC 704.0057 is hereby repealed.

Sec. 17. NAC 704.0062 is hereby repealed.

Sec. 18. NAC 704.0063 is hereby repealed.

Sec. 19. NAC 704.00866 is hereby repealed.

Sec. 20. NAC 704.00874 is hereby repealed.

Sec. 21. NAC 704.00886 is hereby repealed.

Sec. 22. NAC 704.0093 is hereby repealed.

Sec. 23. NAC 704.0095 is hereby repealed.

[EXCLUSIVE INTERNET NOTICE FOR ICAs]

Sec. 24. NAC 703.160 is hereby amended to read as follows.

1. The Secretary shall cause public notice of each filing or proceeding described in subsection 11 to be published in the manner prescribed in this section. The publisher of the public notice shall, not later than 5 days after publication of the notice, provide to the Commission proof of the publication of the notice. The proof must include:

- (a) The name of the newspaper in which the notice was published;
- (b) The name of the county in which the notice was published;

(c) A statement signed by the publisher that the newspaper in which the notice was published is a newspaper of general circulation in the county in which the notice was published; and

(d) The date of the publication of the notice.

2. Except as otherwise provided in this section, if the Secretary determines that the filing or proceeding will have:

(a) A statewide effect, the Secretary shall cause the public notice to be published once in four or more newspapers of general circulation in this State, no two of which are published in the same county.

(b) An effect on a limited number of counties, the Secretary shall cause the public notice to be published once in a newspaper of general circulation in each county affected. If there is no newspaper published in an affected county, the Secretary shall cause the public notice to be published once in a newspaper of general circulation in an adjoining county.

3. For a petition filed pursuant to NAC 703.290, the Secretary shall cause a public notice to be published once in a newspaper of general circulation in the county in this State where the principal place of operations of the incumbent local exchange carrier is located. As used in this subsection, "incumbent local exchange carrier" has the meaning ascribed to it in NAC 704.75993.

4. The Secretary will, if practicable, post each business day on the Internet website of the Commission a current list of all public notices published pursuant to this section.

5. The public notice must be an advertisement which is not less than 1 column inch by 3 inches, with a border on all sides, and must include, as appropriate:

(a) At the beginning of the notice, a title that generally describes the relief requested or the type of proceeding scheduled;

(b) The name of the applicant, complainant or petitioner or the name of the agent for the applicant, complainant or petitioner;

(c) A brief description of the purpose of the filing or proceeding, including, without limitation, a clear and concise introductory statement that summarizes the relief requested or the type of proceeding scheduled and the effect of the relief or proceeding upon consumers;

(d) The location where the filing is on file for the public or the location and time for the proceeding; and

(e) The date by which persons must file comments, notices of intent to participate as a commenter or petitions for leave to intervene with the Commission.

↳ The public notice must be published prominently so that it is reasonably calculated to notify affected persons.

6. If the notice is:

(a) A public notice for a hearing, the Secretary shall cause the notice of hearing to be:

(1) Served on each party and published at least 10 days before the hearing is held; and

(2) Posted at the principal office of the Commission at least 3 days before the hearing is held.

(b) For a filing or a proceeding other than a hearing, the Secretary shall cause the public notice to be published in the appropriate newspapers not less than 3 working days before the proposal in the filing becomes effective or the proceeding is held.

7. The applicant, complainant or petitioner shall pay the cost of the publication.

8. On a weekly basis, the Commission will cause to be published a summary of public notices concerning the filings and proceedings described in subsection 11. The summary of public notices will be published in the Sunday edition of a newspaper of general circulation in Carson City and such other newspapers as determined by the Secretary.

9. If public notice of a filing or proceeding is published by the Secretary pursuant to this section, the Secretary's notice shall be deemed to be legally sufficient public notice of the filing or proceeding, even if public notice in the summary of public notices is deficient or fails to be published pursuant to this section.

10. If public notice of a filing or proceeding is published in the summary of public notices pursuant to this section, the public notice in the summary of public notices shall be deemed to be legally sufficient public notice of the filing or proceeding, even if the Secretary's public notice is deficient or fails to be published pursuant to this section.

11. The provisions of this section apply to the following filings or proceedings:

(a) An application or tariff filing involving any authorization, expansion, reduction or curtailment of services, facilities or authority, any increase in rates, fares or charges, or any change in regulations.

(b) A complaint filed with the Commission pursuant to NAC 703.651.

(c) A petition.

(d) A prehearing conference.

(e) A workshop.

(f) A consumer session.

(g) A hearing.

12. The provisions of this section do not apply to a petition submitted to the Commission pursuant to NAC 703.290.

Sec. 25. (Deleted by amendment.)

Sec. 26. NAC 703.290 is hereby amended to read as follows.

1. A petition for approval of a mediated or negotiated agreement submitted to the Commission pursuant to 47 U.S.C. § 252 must include:

(a) The names of the parties to the agreement.

(b) A copy of the agreement.

(c) A summary of the major terms and conditions included in the agreement.

(d) Reference to any:

(1) Regulations or statutes; or

(2) Opinions or decisions of the Federal Communications Commission, the Commission, federal or state courts, or other persons or entities,

↳ which the petitioner believes are relevant to the approval of the agreement.

(e) A certificate of service demonstrating that:

(1) The petition has been served upon the other party to the negotiations, the staff of the Commission and the Consumer's Advocate; and

(2) Notice of the filing has been provided ***by electronic mail*** to each person and entity on the list for notification established pursuant to NAC 703.296. The notice provided to each such person and entity must include ~~an Internet address of~~ ***a link to the public area of*** a website at which the contents of the filing may be inspected ~~and a physical address and an electronic mail address to which a person or entity may send a request to be sent an electronic copy or a paper copy of the filing~~, ***and an electronic copy of the interconnection agreement may be obtained.***

(f) Any other information which the petitioner believes will be useful to the Commission.

2. Not later than 10 days after the date on which a petition for the approval of the agreement is filed, 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,]~~ *on the Commission's website indicating* that a petition for approval has been received and will be processed pursuant to the procedural schedule set forth in the notice, *which notice petitioner shall publish in the public area of its Internet website.*

3. The procedural schedule set forth in a notice issued pursuant to subsection 2 must specify:

(a) That any interested person or entity may file comments regarding the agreement not later than 30 days after the date on which the agreement was filed with the Commission. The scope of such comments must be limited to whether:

(1) The agreement discriminates against any telecommunications carrier not a party to the agreement;

(2) The implementation of the agreement is not consistent with the public interest, convenience and necessity; or

(3) The 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.

↪ Any comments filed pursuant to this paragraph must be, to the extent practicable, simultaneously served on the Commission, parties to the agreement, the staff of the Commission and the Consumer's Advocate.

(b) That parties to the agreement may file reply comments and legal arguments not later than 15 days after the date established by the Commission for filing initial comments.

(c) The date on which any hearing will be conducted by the presiding Commissioner to obtain further clarification or information regarding the proposed agreement.

4. The notice provided by subsections 2 and 3 shall be the exclusive method for providing notice of the filing required by this section.

~~[4]~~5. The Commission will issue a final order accepting or rejecting the agreement not later than 90 days after the date on which the petition for approval was filed with the Commission.

~~[5]~~6. The Commission may reject an agreement, or any portion thereof, adopted by negotiation only if the Commission finds that:

(a) The agreement, or portion thereof, discriminates against a telecommunications carrier not a party to the agreement; or

(b) The implementation of such agreement or portion is not consistent with the public interest, convenience and necessity.

Sec. 27. NAC 703.296 is hereby amended to read as follows.

1. The Secretary of the Commission shall establish a list of natural persons and entities that will be provided with copies of service of process and other documents in accordance with NAC 703.280 to 703.296, inclusive.

2. The Secretary shall regularly publish notices for the opportunity of other natural persons and entities to be included on the list established pursuant to this section. Such a notice of opportunity must be made in the manner set forth in subsection 2 of NAC 703.160.

3. The Secretary shall include on the list established pursuant to this section each natural person and entity that submits to the Commission a written request to be included on the list.

4. The Secretary shall include on the list established pursuant to this section an electronic mail address for each person or entity.

[CLASSIFICATION/RECLASSIFICATION RULES]

Sec. 28. NAC 704.6806 is hereby amended to read as follows.

1. The provisions of NAC 704.6806 to 704.6808, inclusive, apply to a *small-scale* provider of last resort ~~[of basic service]~~ in any exchange *that is not regulated as a competitive supplier*.

2. *The provisions of NAC 704.6806 to 704.6808, inclusive, do not apply to a competitive supplier.*

Sec. 29. NAC 704.68062 is hereby amended to read as follows.

1. Any person may request that the Commission classify a new service or classify or reclassify an existing service, which is provided by a *small-scale* provider of last resort ~~[of basic service]~~, as essential, discretionary, competitive or deregulated. Such a request must be filed with the Commission in the form of an application or a letter of advice. The service to be classified or reclassified must be provided in a market whose size is no smaller than a wire center, and no larger than the entire area of service of the provider. The requester has the burden of demonstrating that the classification or reclassification will not unfairly or unreasonably impede competition. Except as otherwise provided in subsection 2, the request must:

(a) Fully identify and describe the service proposed to be classified or reclassified, including, without limitation, the:

(1) Technical and common names of the service;

(2) Number of units of the service currently provided within the market for which classification or reclassification is sought;

(3) Facilities and equipment used in providing the service;

(4) Nature and extent of the market in which the service is or will be provided, including, without limitation, the type of subscribers for that service, the source of revenues for that service and the geographic regions in which the service is or will be provided; and

(5) Current price which a subscriber is charged for that service.

(b) Specify the proposed classification of the service and provide all facts necessary to support that classification, including, without limitation, facts to support the findings required in NAC 704.68068 to 704.68076, inclusive, as appropriate.

(c) Specify the specific market area for which the classification or reclassification is being sought.

(d) Specify a method of accounting for the service to be classified or reclassified which satisfies the requirements of ~~[NAC 704.68492 for large providers of last resort of basic service or]~~ NAC 704.68066 for small-*scale* providers of last resort ~~[of basic service]~~, as appropriate.

~~[(e) For a service proposed to be reclassified as competitive or discretionary which does not include a component classified, or proposed to be classified as an essential service, provide an analysis which demonstrates that the price which the reclassified service will recover is equal to or greater than the total service long-run incremental cost associated with that service.~~

~~[(f) If the request proposes to reclassify a service as a competitive or discretionary service that includes a component classified, or proposed to be classified, as an essential service, provide information sufficient to demonstrate that the price for the service covers the combined tariffed rates for all components of the service classified, or proposed to be classified, as an essential service plus the total service long-run incremental cost of those components which are not classified, or proposed to be classified, as an essential service. If there is a substantial difference in cost between providing a component of essential service to a competitor and providing the~~

~~same component to itself, the provider may, upon the approval of the Commission, impute the cost of providing that essential service to itself to reflect the difference in cost. The provider may make such an imputation upon a clear and convincing demonstration to the Commission:~~

~~(1) Of the existence and substantiality of the difference in cost;~~

~~(2) That the difference in cost is not the result of discriminatory and preferential treatment in the design of its network for the provision of essential service components; and~~

~~(3) That the imputation of the cost will not unfairly or unreasonably impede competition.]~~

~~(g) If the request proposes to classify a service as a discretionary service, show that the cost which is incurred directly and indirectly from the provision of each unit of that service, including, without limitation, the price of components for essential services as described in paragraph (f) of this subsection, where appropriate, have been used to establish the minimum price which must be charged for each unit of service.]~~

~~(h) If the request proposes to classify a service as a competitive or deregulated service, include a plan which sets forth the procedures which the provider will use for the protection, use, sharing, and issuance of information regarding its competitors and customers and the services they request or receive. The procedures must include:~~

~~(1) The terms and conditions governing access by the provider and other persons to that information if the information is used to promote or provide competitive services; and~~

~~(2) The manner in which the provider will obtain authorization from the customer to release the information.~~

~~(h) If the request proposes to classify a service as a deregulated service, include: [the information and documentation which must be filed with the annual report pursuant to subsection 1 of NAC 704.68078.]~~

~~(I) *The direct cost of the service accounted for pursuant to the Uniform System of Accounts; and*~~

~~(II) *The method of determining, and the amount of, the common costs and general overhead expenses allocated, as determined pursuant to the apportionment rules set forth in 47 C.F.R. Part 64, as those rules existed on October 25, 1995.*~~

~~(g) If the request proposes to classify a service as a discretionary or competitive service, include the information and documentation which must be filed pursuant to [subsection 2 of NAC 704.68078 if the provider is a large provider of last resort of basic service with 50,000 or more access lines, or pursuant to] NAC 704.68072 if the provider is [a large provider of last resort of basic service with less than 50,000 access lines or] a small-*scale* provider of last resort [of basic service].~~

~~(h) Include plans which set forth safeguards to ensure that the provider will not unfairly or unreasonably impede competition.~~

~~(i) If the request proposes to classify a service as a discretionary service, specify the proposed minimum and maximum rates to be charged if the request to classify the service as discretionary is approved.~~

2. A request to classify a service that is filed by a person other than the *small-scale* provider of ~~the service] last resort~~ is exempt from the requirements set forth in paragraphs (d) to ~~(h)~~, inclusive, of subsection 1.

3. As used in this section:

(a) "Letter of advice" means the document that is required to accompany a tariff sheet transmitted to the Commission pursuant to NAC 703.390.

(b) “Wire center” means the geographic area encompassing all customers who may be served from a building which contains one or more central offices of a provider of last resort ~~[of basic service]~~. A wire center is part of an exchange.

Sec. 30. NAC 704.68064 is hereby amended to read as follows.

1. ~~[Except as otherwise provided in subsection 2, t]~~The Commission will act upon a request filed pursuant to NAC 704.68062 within 90 days after the request is filed unless a protest is received from:

(a) The staff of the Commission;

(b) A person given permission to intervene by the Commission;

(c) The Consumer’s Advocate; or

(d) The *small-scale* provider of last resort ~~[of basic service]~~ that is providing the service to be reclassified.

➔ If a protest is filed, the Commission will act upon the request within 180 days after the date on which the request is filed.

~~[2. The Commission will act upon a request filed pursuant to NAC 704.68062 for reclassification of a service which is provided by a provider of last resort of basic service that is regulated under a plan of alternative regulation pursuant to NRS 704.68904 to 704.68984, inclusive, or NAC 704.68474 to 704.68498, inclusive, within 60 days after the request is filed unless a protest is received from:~~

~~—(a) The staff of the Commission;~~

~~—(b) A person given permission by the Commission to intervene;~~

~~—(c) The Consumer’s Advocate; or~~

~~(d) The provider of last resort of basic service that is providing the service to be reclassified.~~

~~☐ If a protest is filed, the Commission will act upon the request within 120 days after the date on which the request is filed.]~~

~~[3]~~2. A protest must be filed on or before the deadline for the filing of protests that is set forth in the notice required to be published pursuant to NAC 703.160.

Sec. 31. NAC 704.68066 is hereby amended to read as follows.

1. A *small-scale* provider *of last resort* shall identify and keep separate all accounting records, pursuant to the Uniform System of Accounts, for the plant, expenses and all other activities that relate to the provision of a service that has been classified as competitive or deregulated.

2. The Commission will not classify a service as deregulated or competitive if the accounting records which relate to that service are not kept separate from the accounting records which relate to the regulated operations of the *small-scale* provider *of last resort*.

Sec. 32. NAC 704.68068 is hereby amended to read as follows.

The Commission will classify a service *which is provided by a small-scale provider of last resort* as discretionary if it finds that:

1. The service is not a basic *network* service or is not necessary to the provision of a basic *network* service;

2. The service is not necessary for other providers of telecommunication service, including hotels, motels, hospitals, or other similar aggregators of telecommunication services for transient customers, to connect their transient customers with the public switched network;

3. The service is not reasonably necessary to the operations of a majority of subscribers to the service; and

4. Based on its consideration of all other matters considered to be relevant by the Commission, the service is deemed to be of a discretionary nature.

Sec. 33. NAC 704.6807 is hereby amended to read as follows.

1. A person who requests that the Commission classify a service *which is provided by a small-scale provider of last resort* as competitive shall file the following information:

(a) The number of alternative providers of the service, or a comparable service, available in the relevant geographic market;

(b) The percentage of the households or businesses, or both, in the relevant geographic market which have the service, or a comparable service, available from alternative providers; and

(c) The percentage of the market share of the relevant geographic market held by alternative providers of the service and comparable services.

2. To determine if a service may be classified as competitive, the Commission will consider the following factors:

(a) Whether a comparable service is available;

(b) Whether subscribers of the service to be classified as deregulated may reasonably obtain that service from a provider other than a regulated provider of the service;

(c) The ability of the regulated *small-scale* provider *of last resort* to determine or control the price of the service;

(d) The prices, terms, conditions and availability of similar competitive and alternative services;

(e) The need for approval by the Commission of the price of the service to be classified as deregulated;

(f) The ability of other providers of the service to enter the market to provide the service;

(g) The likelihood that other providers of the service will enter the market;

(h) The suitability of substituting a comparable service for the service to be classified as deregulated;

(i) The share of the market for the service held by competitors providing alternative services;

(j) The extent of the entry into the market by providers of alternative or competitive services;

(k) The extent to which competition exists in the geographic area for which a certificate of public convenience and necessity is issued to a *small-scale* provider to provide the service;

(l) Whether the service is reasonably necessary to the operations of a subscriber to the service; and

(m) Any other factors considered to be relevant by the Commission.

3. In making a determination, it is not necessary for the Commission to find in favor of a party on a majority of the factors set forth in subsection 2, except that the Commission will classify a service as competitive if:

(a) The service, or a comparable service, is available from at least two alternative providers in the relevant geographic market;

(b) The service, or a comparable service, is available from alternative providers to more than 50 percent of the households or businesses, or both, in the relevant geographic market; and

(c) All alternative providers of the service and comparable services have a market share of the relevant geographic market of 15 percent or more if the relevant geographic market is an

exchange or larger, or a market share of the relevant geographic market of 30 percent or more if the relevant geographic market is smaller than an exchange.

4. For the purposes of this section, the Commission will determine a market share by using one of the following measurements, as deemed appropriate by the Commission:

(a) The number of households or businesses, or both, in a relevant geographic market supplied with a service by a provider will be divided by the total number of households or businesses, or both, in the same relevant geographic market supplied with the service and all comparable services by all providers; or

(b) The number of units of the service supplied to households or businesses, or both, in a relevant geographic market by a provider will be divided by the total number of units of the service and all comparable services supplied to households or businesses, or both, in the same relevant geographic market by all providers of these services.

5. As used in this section:

(a) “Alternative provider” means an entity that is not affiliated with or under the common control with another alternative provider or with a *small-scale* provider of last resort. As used in this paragraph, “affiliation” and “control” have the meaning ascribed to them in 47 C.F.R. Part 32.9000, as that section exists on October 25, 1995.

(b) “Relevant geographic market” means the geographic area for which the classification of a service as competitive is sought pursuant to NAC 704.68062.

Sec. 34. NAC 704.68072 is hereby amended to read as follows.

1. If a *small-scale* provider of last resort ~~[of basic service, or a large provider of last resort of basic service with less than 50,000 access lines regulated pursuant to NAC 703.2501 to 703.2711, inclusive,]~~ requests that a service be classified as discretionary or competitive, the Commission may, in lieu of the factors specified in NAC 704.68068 and 704.6807, consider whether a comparable service offered by another *small-scale* provider of last resort ~~[of basic service]~~, *or competitive supplier prior to the enactment of SB 518*, has been classified as discretionary or competitive. If the requester can demonstrate that a comparable service provided by a provider of last resort ~~[of basic service]~~, *or competitive supplier prior to the enactment of SB 518*, has been classified as discretionary or competitive, and that it is reasonable to apply that classification to service provided by the requester, the requested classification may be authorized. The requester has the burden of demonstrating that the classification will not unfairly or unreasonably impede competition.

2. A *small-scale* provider of last resort ~~[of basic service and a large provider of last resort of basic service with less than 50,000 access lines regulated pursuant to NAC 703.2501 to 703.2711, inclusive,]~~ shall include in its regulated results of operation:

(a) All revenues and costs associated with services related to inside wiring pursuant to NAC 704.681 to 704.683, inclusive, and yellow pages; and

(b) All revenues and cost associated with services classified as discretionary or competitive pursuant to this section.

Sec. 35. NAC 704.68078 is hereby repealed.

Sec. 36. NAC 704.6808 is hereby repealed.

[SERVICE DEREGULATION/EXEMPTION FROM TARIFF]

Sec. 37. Chapter 704 of NAC is hereby amended by adding thereto the following provision.
The provisions of NAC 704.7592 to 704.7599, inclusive, do not apply to a competitive supplier.

[CPCN APPLICATIONS BY COMPETITIVE SUPPLIERS]

Sec. 38. NAC 704.7472 is hereby amended to read as follows.

1. An application for a certificate of public convenience and necessity filed by a competitive ~~[provider of telecommunication service]~~ *supplier* must contain all the following information, either in the application or as exhibits attached to it:

(a) The type of service, if any, presently being provided by the applicant, or being proposed to be provided by the applicant, and a general description of the service.

(b) The most recent annual financial statements of the applicant, or if annual financial statements are not available, financial statements of the most recent quarterly period.

(c) A copy of the certificate issued by the Secretary of State of the State of Nevada which acknowledges that the ~~[provider]~~ *competitive supplier* has filed its articles of incorporation with the Secretary of State.

(d) Proof that a performance bond has been obtained in an amount which is sufficient to cover deposits and advance payments paid by customers.

(e) The toll-free telephone number that the customers will be given for contacting the ~~[provider]~~ *competitive supplier* regarding the establishment of service, complaints, and queries about service and billing, and all other customer service matters.

(f) Facts sufficient to establish that the ~~[provider]~~ *competitive supplier* possesses the necessary technical capability to provide the proposed service.

~~[(g) A statement concerning whether the provider intends to provide switched telecommunication service within an exchange. If the provider intends to provide switched telecommunication service within an exchange, the application must include affirmation that the provider will offer basic service to its customers.]~~

~~[(h)]~~g) If the ~~[provider]~~ *competitive supplier* is doing business or intends to do business in this State under an assumed or fictitious name:

(1) A copy of each certificate that the ~~[provider]~~ *competitive supplier* has filed or intends to file pursuant to chapter 602 of NRS with the county clerk of each county in which the ~~[provider]~~ *competitive supplier* is doing business or intends to do business; or

(2) A statement that conforms to the requirements of NRS 602.020, if the ~~[provider]~~ *competitive supplier* is not otherwise subject to the provisions of chapter 602 of NRS.

2. The provisions of NRS 704.330, 704.350 and 704.370 apply to any such application.

3. As used in this section, “advance payment” means the money paid by a customer to a ~~[provider of telecommunication service]~~ *competitive supplier* for a service which the customer has not yet received, including payments for telecommunication debit card services.

Sec. 39. NAC 704.7473 is hereby amended to read as follows.

1. Protests against an application for a certificate of public convenience and necessity filed by a competitive ~~[provider of telecommunication service]~~ *supplier* must be filed with the

Commission within 20 days after publication of the notice issued by the Commission. The Commission will act upon an application within 60 days after it is filed.

2. A protest filed against an application of a competitive ~~[provider of telecommunication service]~~ *supplier* other than a reseller must be sufficient to support a finding of the Commission that the:

- (a) Applicant does not possess the technical capability to provide the proposed service; and
- (b) Public interest will be substantially harmed by granting the certificate.

3. A protest filed against an application of a reseller must be sufficient to support a finding of the Commission that the public interest will be substantially harmed by granting the certificate.

4. If the Commission finds that a protest filed pursuant to subsection 2 or 3 has sufficient support, the Commission will immediately schedule a hearing on the matter.

Sec. 40. NAC 704.7475 is hereby amended to read as follows.

1. A *small-scale* provider of last resort ~~[of basic service]~~ which offers services classified as discretionary must file with the Commission a schedule of rates, charges, terms, and conditions, which must include the minimum and maximum range of rates for each intrastate service provided and a list of each specific rate currently in effect.

2. The initial minimum and maximum rates must be established in accordance with NAC 704.68076.

Sec. 41. NAC 704.7477 is hereby amended to read as follows.

1. When a *small-scale* provider of *last resort* ~~[telecommunication service]~~ proposes to establish or change its schedule of minimum and maximum rates or the terms and conditions for a new or existing discretionary service, it shall file with the Commission, along with the proposed schedule, two verified copies of a document containing a:

- (a) Summary of the proposed schedule and any changes therein; and
- (b) Statement of facts sufficient to establish and support the schedule and changes.

↪ The applicant has the burden of demonstrating that the application of the price range will not unfairly or unreasonably impede competition.

2. *Small-scale* providers of last resort ~~[of basic service]~~ may adopt the price range for comparable service, if any, of another provider of last resort ~~[of basic service]~~ pursuant to NAC 704.68072, unless it is demonstrated that application of the price range to the *small-scale* provider's operations is unreasonable. The applicant has the burden of demonstrating that the application of the price range will not unfairly or unreasonably impede competition.

3. Protests against a proposed schedule must be filed within 30 days after publication of the notice issued by the Commission. The Commission will act upon a proposal within 60 days after it is filed. A request for a hearing or a protest must be sufficient to support a finding of the Commission that:

(a) Authorizing the proposed schedule would cause substantial harm to the public interest; and

(b) There is a likelihood that, after an investigation, the proposed schedule would be found to be unjust and unreasonable.

↪ If such a finding is made by the Commission and the proposed schedule is suspended, the Commission will immediately schedule a hearing on the matter.

4. When a *small-scale* provider of *last resort* ~~telecommunication service~~ proposes to change any actual rate charged within the range of the approved minimum and maximum rates in the schedule, it shall:

(a) Notify the public affected by the proposed changes:

(1) By advertising the changes in a quarter page of a newspaper of general circulation in the market area 10 days before the changes take effect; or

(2) According to a plan approved by the Commission.

(b) File with the Commission two verified copies of a summary of the proposed changes.

There must be attached to the summary:

(1) The list of prices specifying the actual rates to be charged;

(2) An affidavit indicating that an advertisement summarizing the proposed changes has been or will be published pursuant to subparagraph (1) of paragraph (a) or describing the provider's plan to inform the public affected by the proposed changes if an advertisement in a newspaper is considered to be inappropriate; and

(3) A description of the provider's plan for responding to customers' requests for changes in service.

5. Proposed changes in rates within the range of approved minimum and maximum rates for an existing service:

(a) Become effective on the date specified in the proposal, which must not be less than 10 days after it is filed with the Commission; and

(b) Will not be suspended by the Commission.

Sec. 42. NAC 704.7483 is hereby amended to read as follows.

1. *Except as otherwise provided in subsection 2, every ~~provider of telecommunication service~~ telecommunication provider* shall submit, on May 15 of each year, a report which:

~~1.~~(a) Includes a statement of income, a balance sheet, a statement of cash flow of the provider relating to the total operations of the provider, and a statement of the intrastate revenues of the provider. The report must also identify the location where any working papers supporting the report may be reviewed.

~~2.~~(b) Identifies the exchanges, routes, or other geographic areas of this State where it is providing, or expects to provide, services and the types of the services being provided. The report must include the number and type of customers being served, by service and geographic area.

2. *On or before May 15 of each year, a competitive supplier shall file with the Commission the information required by section 22 of AB 518.*

Sec. 43. NAC 704.74935 is hereby amended to read as follows.

1. The provisions of NAC 704.7475, 704.7477, 704.7485 and 704.7487 apply *only* to discretionary and competitive services *provided by a small-scale provider of last resort*.

2. The provisions of NAC 704.7475, 704.7477, 704.7485 and 704.7487 do not apply to ~~basic service or alternative operator services~~ *a competitive supplier*.

Sec. 44. NAC 704.7494 is hereby amended to read as follows.

1. A ~~competitive provider of telecommunication service~~ *provider* may not change its name or the name under which it conducts business in this State without obtaining prior authorization from the Commission.

2. A ~~competitive provider of~~ **telecommunication service provider** which changes its:
~~1.~~(a) Address or telephone number; or
~~2.~~(b) Toll-free customer service number,

↳ shall file with the Commission a notification of change not later than 30 days after the provider makes that change.

3. *A competitive supplier which elects to comply with the requirements of section 24(2)(a) of AB 518 by maintaining a publicly available Internet website shall file with the Commission a notification of a change in the address of the Internet website not later than 30 days after the supplier makes that change.*

Sec. 45. NAC 704.74945 is hereby repealed.

[CPCN APPLICATIONS]

Sec. 46. (Deleted by amendment.)

Sec. 47. NAC 703.180 is hereby amended to read as follows.

In the case of a ~~telephone company, or a company which provides telecommunication or a related service to the public~~ **small-scale provider of last resort that is not regulated as a competitive supplier**, in addition to all other applicable requirements of NAC 703.175, an application must include the estimated number of customers and the estimated revenue to be recovered from those customers by the telephone company, or the company providing telecommunication or a related service to the public, for the first 5 years of operation.

Sec. 48. NAC 704.68022 is hereby repealed.

Sec. 49. NAC 704.68024 is hereby repealed.

[RATE CASE FILING RULES]

Sec. 50. *The provisions of NAC 703.2501 to 2509, inclusive, apply to:*

1. *Any general rate case application filed by a small-scale provider of last resort, except as otherwise provided in NAC 703.2501 to 2509; and*

2. *A general rate case application pursuant to section 25(2)(b) of A.B. 518 filed by a competitive supplier filed before January 1, 2012, to increase the rates or pricing of basic network services as set forth in the tariffs of the competitive supplier that were in effect on January 1, 2007.*

Sec. 51. NAC 703.2502 is hereby amended to read as follows.

“Access line” means ~~a facility for the transmission of telecommunication by wire, radio, or other medium for transmission between a customer’s premises and the switching facilities of a provider of basic telecommunication service~~ **any connection between a customer and a carrier that provides the customer with access to telecommunication in Nevada.**

Sec. 52. NAC 703.25024 is hereby repealed.

Sec. 53. NAC 703.25026 is hereby amended to read as follows.

“Provider of last resort ~~{of basic service}~~” means a ~~{provider of}~~ telecommunication ~~{service}~~ *provider* who is obligated to provide basic *network* service *and business line service* within a service territory, as set forth in NAC 704.6802.

Sec. 54. NAC 703.25028 is hereby amended to read as follows.

“Small-*scale* provider of last resort ~~{of basic service}~~” means *an incumbent local exchange carrier that is a* provider of last resort of basic *network* service *and business line* ~~{providing basic}~~ service to customers ~~{under the jurisdiction of the Commission}~~ through less than ~~{10,000}~~ *60,000* access lines.

Sec. 55. NAC 703.2508 is hereby amended to read as follows.

1. Except as otherwise provided in subsection 6, if a public utility that provides telecommunication services proposes to increase its annual gross revenue by at least 10 percent or by more than \$50,000, it must submit a master document for the request of data, together with answers to the questions contained in the document, to:

- (a) The Consumer’s Advocate; and
- (b) The staff of the Commission assigned to regulatory operations.

2. The public utility must:

- (a) Submit the master document for the request of data, together with the answers, on the same date as it files the application for adjustments in rates.
- (b) Complete as much of the answers to the questions in the master document as possible given the available data and any agreements for the confidentiality of information which have been executed.

3. Except as otherwise provided in this subsection, the master document for the request of data must be submitted in the illustrative format required by the Commission. The illustrative format for a particular master document for the request of data may be changed if the Consumer’s Advocate, the staff of the Commission and the public utility agree to the change. The illustrative format for the master document for the request of data may be obtained at the offices of the Commission.

4. The following entities may request the Commission to change the illustrative format for the master document for the request of data:

- (a) The Consumer’s Advocate;
- (b) The staff of the Commission; or
- (c) The public utility which proposes to increase its annual gross revenue by at least 10 percent or by more than \$50,000.

5. Any changes which the Commission makes to the illustrative format for the master document for the request of data do not apply to a master document for the request of data submitted by a public utility that provides telecommunication services within 90 days after the Commission approves the changes.

6. A small-*scale* provider of last resort ~~{of basic service}~~ *that is not regulated as a competitive supplier* which submits an application for a change of rate in accordance with NAC 703.27116 to 703.27146, inclusive, does not have to submit a master document as required by this section.

Sec. 56. NAC 703.251 is hereby amended to read as follows.

NAC 703.2501 to 703.2711, inclusive, apply to ~~[large providers of last resort of basic service providing intrastate service to customers under the jurisdiction of the Commission]~~ **a competitive supplier that is an incumbent local exchange carrier** unless ~~[the large provider]~~ **such competitive supplier** is ~~[regulated pursuant to NAC 704.68474 to 704.68498, inclusive]~~ **otherwise exempted by law.**

Sec. 57. NAC 703.2511 is hereby amended to read as follows.

An application by a ~~[large provider of last resort of basic service]~~ **competitive supplier that is an incumbent local exchange carrier** for adjustments in rates or charges must include:

1. An exhibit summarizing the presently existing rates and the proposed rates, a brief description of each change in rates requested and a reference to the associated page of the tariff.
2. An exhibit containing all proposed changes or additions to the tariff. If the proposal changes existing language in the tariff, the exhibit must also contain the existing language in the tariff.
3. A complete and accurate explanation of the circumstances and conditions relied upon as justification for the application.
4. An exhibit referencing any prior proceeding before the Commission which has been held since the applicant's last general rate case and which is related to any of the proposals contained in the application.
5. A brief description of the:
 - (a) ~~[Large provider's]~~ **Competitive supplier's** reasons for the application or filing of a tariff;
 - (b) Estimated effect that approval of the application or tariff by the Commission will have on the applicant's annual revenues; and
 - (c) Estimated effect, for each service offered, of approval of the application or tariff by the Commission on rates and charges paid by the large provider's customers.
6. A proposed notice of hearing which conforms to the requirements of paragraphs (b), (c) and (d) of subsection 2 of NRS 233B.121.

Sec. 58. NAC 703.2561 is hereby amended to read as follows.

In filing its application, a ~~[large provider of last resort of basic service]~~ **competitive supplier that is an incumbent local exchange carrier** must include statements A to J, inclusive, K with its related schedules, L, M with its related schedules and N, O and P, as these statements and schedules are described in NAC 703.2565 to 703.2687, inclusive.

Sec. 59. NAC 703.2691 is hereby amended to read as follows.

1. The applicant may certify in statement I to the following estimated and subsequently experienced adjustments for up to 6 months beyond the recorded test period, as provided in subsection 3 of NRS 704.110. Adjustments that may be certified and reported in an application for a rate increase in statement I include, but are not limited to, the following items:
 - (a) The costs of new securities as defined in NRS 704.322 and the associated interest expense as an adjustment to federal income tax calculation;
 - (b) Adjustments in the rate base that reflect increased investments in facilities used and useful in operations of the ~~[large provider of last resort of basic service]~~ **competitive supplier that is an incumbent local exchange carrier** and the deduction of the appropriate amounts from construction work in progress as a factor in allocating interest costs between departments;

- (c) Operating revenues based on sales calculated as described in NAC 703.2611; and
 - (d) Expenses which are:
 - (1) Fuel costs;
 - (2) Labor costs, pensions, benefits and taxes, when the taxes are a direct result of a change in the rate per unit of labor costs;
 - (3) Costs for research and development;
 - (4) Property taxes;
 - (5) Depreciation;
 - (6) Insurance; and
 - (7) Rent.
2. Each adjustment must also include a calculation of the appropriate federal income tax.

Sec. 60. NAC 703.2711 is hereby amended to read as follows.

1. When a ~~[large provider of last resort of basic service]~~ **competitive supplier that is an incumbent local exchange carrier** files an application ~~[to adjust any rate or charge for the service or commodities furnished by it in order to increase its return on investment, to increase its rate base or to cover expenses]~~ **pursuant to Section 25(2)(b)(2) of AB 518**, the ~~[large provider]~~ **competitive supplier** shall:

(a) Within 10 days after filing the application, make available at each of its business offices a complete copy of the application in such form and place as to be readily accessible to and conveniently inspected by the public;

(b) Within 10 days after filing the application, print in plain type and post at each of its business offices, in such form and place as to be readily accessible to and conveniently inspected by the public, a notice stating that the application has been filed with the Commission, describing briefly the purpose of the application, indicating that the complete application is available for public inspection on the premises and listing the locations at which additional information may be obtained; and

(c) Within 20 days after filing the application, submit to the Commission affidavits of that filing and the posting required in paragraphs (a) and (b) of this subsection.

2. When a ~~[large provider of last resort of basic service]~~ **competitive supplier that is an incumbent local exchange carrier** files an application **pursuant to Section 25(2)(b)(2) of AB 518** to adjust any rate or charge for the service or commodities furnished by it to increase its return on investment, to increase its rate base or to cover expenses and the Commission has set a date for a hearing on the application, the applicant shall provide notice to its customers who are affected by the proposed increase. The first paragraph of the notice must state the date, time and place of the hearing, the total amount of the proposed increase in dollars, the estimated proposed monthly increase in dollars and the proposed percentage of increase for ~~[each class of customer or class of]~~ **basic network** service. The notice must also state that the Commission may set rates which may be higher or lower than the rates proposed in the application and that additional information may be obtained from the Commission or at the offices of the ~~[large provider]~~ **competitive supplier** filing the application. The notice must be given at least 10 days before the hearing, by two of the three following methods:

(a) Inclusion in the regular bill of charges transmitted to the applicant's customers.

(b) Separate mailing to each of the applicant's customers.

(c) Prominent presentation in one or more forms of the media, such as newspapers, television or radio, so that the notice will likely reach the applicant's customers.

3. At or before the hearing, the applicant must submit a verified statement to the Commission that the notice required in subsection 2 has been given. The statement must:
 - (a) List the means by which, and the dates and times when, the notice was mailed, published or broadcast; and
 - (b) Include, as an attachment, a copy of the notice as mailed, published or transcribed.

[CHANGES IN RATES OF SMALL-SCALE PROVIDERS OF LAST RESORT]

Sec. 61. NAC 703.27116 is hereby amended to read as follows.

The provisions of NAC 703.2501 to 703.2509, inclusive, and 703.27116 to 703.27146, inclusive, apply to small-*scale* providers of last resort ~~[of basic service providing service to customers under the jurisdiction of the Commission unless the small provider is regulated pursuant to a plan of alternative regulation adopted in accordance with NAC 704.68474 to 704.68498, inclusive].~~

Sec. 62. NAC 703.27118 is hereby amended to read as follows.

An application for adjustments in rates by a small-*scale* provider of last resort ~~[of basic service]~~ must include:

1. An exhibit summarizing the presently existing rates and the proposed rates, a brief description of each change in rates requested and a reference to the associated page of the tariff.
2. An exhibit containing all proposed changes or additions to the tariff. If the proposal changes existing language in the tariff, the exhibit must also contain the existing language in the tariff.
3. A complete and accurate explanation of the circumstances and conditions relied upon as justification for the application.
4. An exhibit referencing any prior proceeding before the Commission which has been held since the applicant's last general rate case and which is related to any of the proposals contained in the application.
5. A brief description of the:
 - (a) Provider's reasons for the application or filing of a tariff;
 - (b) Estimated effect that approval of the application or tariff by the Commission will have on the applicant's annual revenue; and
 - (c) Estimated effect, for each service offered, of approval of the application or tariff by the Commission on rates and charges paid by the small-*scale* provider~~[s]~~ of last resort's customers.
6. A proposed notice of hearing which conforms to the requirements of paragraphs (b), (c) and (d) of subsection 2 of NRS 233B.121.

Sec. 63. NAC 703.27128 is hereby amended to read as follows.

1. Whenever a small-*scale* provider of last resort ~~[of basic service]~~ files a request which will result in a general change in its annual revenues as a consequence of adjusting rates for existing service, the provider must submit a completed application, setting forth its proposed changes and the reasons for the changes. The application must contain recorded results of revenues, expenses, investments, costs of capital for the test year and normalization and annualization adjustments as necessary to reasonably and appropriately reflect the results of its operations.

2. The Commission will give public notice of the application in accordance with its regulations and procedures. The Commission will not consider a request for a rate increase as filed until the application is complete and ready for the staff's analysis.

3. The original and 10 legible copies of each application must be filed with the Commission.

Sec. 64. NAC 703.2713 is hereby amended to read as follows.

A small-*scale* provider of last resort ~~{of basic service}~~ shall serve a copy of the application on the governing body of each county, municipality and general improvement district whose residents would be affected by the proposed changes in rates. The applicant must also comply with the notice provisions set forth in NAC 703.27146.

Sec. 65. NAC 703.27132 is hereby amended to read as follows.

1. An application by a small-*scale* provider of last resort ~~{of basic service}~~ for a change in rates must include the following:

(a) The general information specified in NAC 703.27118.

(b) Information required to complete the following forms, which are available from the Commission:

(1) Form A which provides general information about the company.

(2) Form B which is a statement of financial position based on the total company, in the order of accounts prescribed by the Uniform System of Accounts, as of the beginning and ending of the test year.

(3) Form C which is an income statement based on the total company, in the order of accounts prescribed by the Uniform System of Accounts, for the test year.

(4) Form D which is a statement that shows the balance at the beginning of the test year with debits and credits to retained earnings during that year according to descriptive captions and the resultant balance at the end of the test year.

(5) Form E which is a summary of the overall rate base of the company by primary plant account for the test year. The rate base must be separated to reflect the total company and Nevada jurisdictional accounts.

(6) Form F which must contain a statement that shows the dollar amount of each component of the capital structure, its related cost percentage and the proportion of each component of the capital structure to the total capital structure. This form must also show the percentage of the overall rate of return requested.

(7) Form G which is a summary of overall results of operations developed from the supporting schedules and statements. The results of operations must be separated by jurisdiction. Form G must show the amounts as recorded on the applicant's books, adjustments during the test year of known changes, adjustments necessary to normalize or annualize the various components of the results of operation and any estimated adjustments to be certified by the applicant. The company shall annualize and normalize revenues, depreciation expenses and labor expenses. The rate base at the end of the period must be utilized to calculate the results of operation. The form must show the applicant's return on equity and the application of this return on equity and resulting rate of return on the overall rate base. The applicant's return on equity will be determined in accordance with NAC 703.27138, unless otherwise determined by the Commission.

(8) If Form G or Form I, or both, contain an adjustment for estimated changes beyond the actual test year, certification of these amounts must be submitted in Form H in accordance with

subsection 3 of NRS 704.110. The certified amounts must be shown on this form in the same format as those shown in Form G or Form I, as appropriate. Each certified adjustment must be shown separately. The necessary detail used to support each certified adjustment must be submitted with this form.

(9) Form I which must:

(I) Contain a statement that shows operating revenues of the provider, separated by jurisdiction, classified in accordance with the accounts for operating revenue prescribed by the Uniform System of Accounts;

(II) Disclose, using such supporting schedules as necessary, monthly revenues and revenue totals for the period of testing; and

(III) Disclose, using such supporting schedules as necessary, the revenue totals for the period of testing from adjusted jurisdictional revenues as computed pursuant to the presently effective and proposed rates together with the difference in the annual revenues.

↳ Jurisdictional operating revenues must be adjusted to show the annual effect of changes occurring during the test year. If the application contains adjustments for estimated changes in expenses beyond the actual recorded test year, the applicant must adjust the jurisdictional operating revenues to show the annual effect of changes occurring during the test year for certification in Form H.

(10) Form J which must contain a statement that shows the expense for operation and maintenance according to each account of the Uniform System of Accounts. If the expense accounts contain charges or credits in excess of \$5,000 from associated companies of the applicant or departments of the applicant which are not utilities, the applicant shall submit the following information for each such associated company or department which:

(I) Shows the amount of the charges or credits during each month and in total for the year of testing;

(II) Shows the classification of the account or the classification charged or credited;

(III) Includes a description of the specific services performed for or by the associated company or department; and

(IV) Shows the bases used in determining the amounts of the charges or credits.

(11) Form K which must contain a statement that shows separately the plant depreciation and amortization expense by functional classifications. These expenses must be shown in separate columns as follows:

(I) Expenses for the period of testing;

(II) Any adjustment to such an expense; and

(III) The total adjusted expense claimed.

(12) Form L which provides for customer notice.

2. Until the utility has submitted a completed application, its application will not be considered by the Commission.

Sec. 66. NAC 703.27134 is hereby amended to read as follows.

1. Upon receipt of an application for a change in the rates filed pursuant to NAC 703.27128 to 703.27146, inclusive, the Commission's Division of Consumer Complaint Resolution will prepare a report on all service complaints received by the Division after the last such request by the small-*scale* provider of last resort ~~[of basic service]~~.

2. The staff of the Commission will review the application to determine whether the requested change in rates is reasonable. The staff will conduct the review and forward its report

on whether the change in rates is reasonable and the report on consumer relations to the small-*scale* provider *of last resort* for its review not later than 60 days after the completed application is filed.

Sec. 67. NAC 703.27138 is hereby amended to read as follows.

1. At least once every 3 years, small-*scale* providers of last resort ~~{of basic service}~~, the staff of the Commission and the Consumer's Advocate shall hold discussions to determine whether they can recommend:

- (a) A formula to calculate returns on common equity;
- (b) A generic return on common equity; or
- (c) Individual returns on common equity,

↳ that would be applicable to the small-*scale* provider of last resort ~~{of basic service}~~ until the time in which the returns on common equity are next established pursuant to this section. The staff of the Commission is responsible for convening the discussion.

2. If the small-*scale* providers *of last resort*, the staff of the Commission and the Consumer's Advocate are able to agree to a mutually acceptable formula, generic return or returns on equity for individual companies, the staff of the Commission shall submit a petition requesting review and approval of the joint recommendation by the Commission. If the parties cannot agree on a joint recommendation, the staff of the Commission shall file a petition requesting that the Commission adopt a formula, a fixed return on common equity applicable to all small-*scale* providers, or a specific return on common equity for individual small-*scale* providers *of last resort*. In its petition, the staff shall present the facts necessary to justify its recommendations.

3. Upon receipt of a petition pursuant to subsection 2, the Commission will give public notice of the petition and solicit written comments and may, after a reasonable time for the receipt of written comments, issue an order which accepts, rejects or modifies the recommendation and specifies the formula, return or returns as accepted, rejected or modified, or set the matter for hearing.

4. The Commission will use the formula, return or returns on common equity as determined by the Commission pursuant to this section in evaluating each application for a change in rates filed by a small-*scale* provider of last resort ~~{of basic service}~~ subject to the provisions of NAC 703.27128 to 703.27146, inclusive, and for requests for money from the Fund for Universal Service established pursuant to NRS 704.040, unless a party of record to the proceeding notifies the Commission and the other parties of record, in writing, before the deadline set for petitions for leave to intervene, of its intention to present evidence in support of a different rate of return on common equity.

Sec. 68. NAC 703.27142 is hereby amended to read as follows.

If a small-*scale* provider of last resort ~~{of basic service}~~ believes that its compliance with NAC 703.27128 to 703.27146, inclusive, would be impracticable or unnecessary because of factors which are unique to its application, the small-*scale* provider *of last resort* must apply to the Commission for a variance from those provisions accompanied by justification for the deviation.

Sec. 69. NAC 703.27144 is hereby amended to read as follows:

Certified adjustments.

1. The applicant may certify in Form I to the following estimated and subsequently experienced adjustments for up to 6 months beyond the recorded test period, as provided in subsection 3 of NRS 704.110. Adjustments that may be certified and reported in an application for any rate increase in Form I include, but are not limited to:

- (a) The cost of new securities, as defined in NRS 704.322, and the associated interest expense as an adjustment to the calculation of federal income tax;
- (b) Adjustments in the rate base that reflect increased investments in facilities used and useful in the operations of the small-*scale* provider of last resort ~~[of basic service]~~ and the deduction of the appropriate amounts from construction work in progress as a factor in allocating interest costs between departments;
- (c) Operating revenues based on sales calculated as described in NAC 703.2611; and
- (d) Expenses which are:
 - (1) Fuel costs;
 - (2) Labor costs, pensions, benefits and taxes, if the taxes are a direct result of a change in the rate per unit of labor costs;
 - (3) Costs for research and development;
 - (4) Property taxes;
 - (5) Depreciation;
 - (6) Insurance; and
 - (7) Rent.

2. Each adjustment must also include a calculation of the appropriate federal income tax.

Sec. 70. NAC 703.27146 is hereby amended to read as follows:

Notice to public and customers.

1. When a small-*scale* provider of last resort ~~[of basic service]~~ files an application to adjust any rate or charge for the service or commodities furnished by it in order to increase its return on investment, to increase its rate base or to cover expenses, the applicant shall:

(a) Within 10 days after filing the application, make available at each of its business offices a complete copy of the application in such form and place as to be readily accessible to and conveniently inspected by the public;

(b) Within 10 days after filing the application, print in plain type and post at each of its business offices, in such form and place as to be readily accessible to and conveniently inspected by the public, a notice stating that the application has been filed with the Commission, describing briefly the purpose of the application, indicating that the complete application is available for public inspection on the premises and listing the locations at which additional information may be obtained; and

(c) Within 20 days after filing the application, submit to the Commission affidavits of that filing and the posting required in paragraphs (a) and (b) of this subsection.

2. When a small-*scale* provider of last resort ~~[of basic service]~~ files an application to adjust any rate or charge for the service or commodities furnished by it to increase its return on investment, to increase its rate base or to cover expenses and the Commission has set a date for a hearing on the application, the applicant shall provide notice to its customers who are affected by the proposed increase. The first paragraph of the notice must state the date, time and place of the hearing, the total amount of the proposed increase in dollars, the estimated proposed monthly increase in dollars and the proposed percentage of increase for each class of customer or class of service. The notice must also state that the Commission may set rates which may be higher or

lower than the rates proposed in the application and that additional information may be obtained from the Commission or at the offices of the small-scale provider *of last resort* filing the application. The notice must be given at least 10 days before the hearing, by two of the three following methods:

- (a) Inclusion in the regular bill of charges transmitted to the applicant's customers.
- (b) Separate mailing to each of the applicant's customers.
- (c) Prominent presentation in one or more forms of the media, including, but not limited to, newspapers, television or radio, so that the notice will likely reach the applicant's customers.

3. At or before the hearing, the applicant shall submit a verified statement to the Commission that the notice required in subsection 2 has been given. The statement must:

- (a) List the means by which, and the dates and times when, the notice was mailed, published or broadcast; and
- (b) Include, as an attachment, a copy of the notice as mailed, published or broadcast.

[NEW OR REVISED DEPRECIATION RATES]

Sec. 71. NAC 703.2715 is hereby amended to read as follows.

1. Except as otherwise provided in ~~NAC 704.68494~~ **subsection 2**, the provisions of NAC 703.272 to 703.278, inclusive, apply to any electric, gas, telegraph or telephone company, except a carrier between local areas of transport and access as defined by NAC 704.00868 and any public utility furnishing water or sewer services under the jurisdiction of the Commission which:

~~1-~~(a) Has an annual operating revenue of at least \$250,000; and

~~2-~~(b) Submits an application for approval of new or revised depreciation rates.

2. *The provisions of NAC 703.272 to 703.278, inclusive, only apply to a competitive supplier that is an incumbent local exchange carrier in the event the competitive supplier files a general rate case application pursuant to section 25(2)(b) of A.B. 518 before January 1, 2012, to increase the rates or pricing of basic network services as set forth in the tariffs of the competitive supplier that were in effect on January 1, 2007.*

[GEOGRAPHICALLY AVERAGED RATES]

Sec. 72. NAC 704.68085 is hereby amended to read as follows.

1. The rates charged for intrastate interexchange toll service by a ~~provider of~~ telecommunication ~~service~~ **provider that is not a competitive supplier** must be geographically averaged throughout each LATA, or within such other smaller geographic area as the Commission deems appropriate to balance the interest of all customers and providers.

2. The rates charged **for essential and discretionary services** by a **small-scale** provider of last resort ~~of basic service~~ **that is not regulated as a competitive supplier** ~~for essential and discretionary services~~ must be geographically averaged throughout the provider's service territory, or within such other smaller geographic area as the Commission deems appropriate to balance the interests of all customers and providers.

3. Any person may file an application with the Commission which requests that the rates **charged** for a intrastate interexchange toll service **by a small-scale provider of last resort that is not regulated as a competitive supplier** be geographically averaged pursuant to subsection 1 or 2 within a geographic area which is smaller than the LATA in which the service is provided.

4. The applicant has the burden of demonstrating that the request for the deviation balances the interest of all customers and providers, and will not, if approved, unfairly and unreasonably impede competition. The application must:

(a) Fully identify and describe the service, including all of the information set forth in subsection 1 of NAC 704.68062;

(b) Specify the rate for the service and provide all facts necessary to support the appropriateness of the proposed rates, including those facts enumerated in subsection 5; and

(c) Specify the relevant market area of the service, in terms of the specific geographic boundaries, for the proposed deviation.

5. To determine whether an application filed pursuant to subsection 3 should be approved the Commission will consider, in balancing the interests of all customers and providers:

(a) The cost of providing the service in the proposed smaller geographic area ~~[, including its total service long-run incremental cost];~~

(b) The extent to which actual or potential competition, or both actual and potential competition, exists for the service in the proposed smaller geographic area, including the price charged by actual competitors or the price which may be charged by a potential competitor for the service; and

(c) Any other factors deemed to be relevant by the Commission.

6. The provisions of subsections 1 to 5, inclusive, do not apply to a competitive supplier.

[ACCOUNTING PRACTICES]

Sec. 73. NAC 704.645 is hereby amended to read as follows.

1. The Commission hereby adopts by reference the regulations contained in 47 C.F.R. Part 32, Uniform System of Accounts for Class A and B telephone companies, as those regulations exist on January 1, 1988. That part is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at the price of \$18.

2. ***Except as otherwise provided in subsection 3, ~~[E]~~each*** company shall disclose, in an attachment to its annual report to the Commission, any changes in methods of accounting or allocation which it has made during the reporting period. The attachment must include a description of the previous methods of accounting or allocation used, the present methods of accounting or allocation used and a calculation of the approximated impact of each change in method upon the company's weighted cost of capital, rate base, and summary of earnings.

3. The provisions of subsection 2 do not apply to a competitive supplier.

[REPORTS OF MATERIAL TRANSACTIONS]

Sec. 74. NAC 704.272 is hereby amended to read as follows.

1. Except as otherwise provided in this section, the provisions of NAC 704.270 to 704.273, inclusive, apply to all public utilities.

2. The provisions of NAC 704.270 to 704.273, inclusive, do not apply to ~~[any providers of telecommunication service, except for providers of last resort of basic service]~~ ***a competitive supplier.***

3. Unless otherwise ordered by the Commission, transactions which relate solely to telecommunication services deemed competitive or nonregulated pursuant to the provisions of

NAC 704.6806 to 704-~~6808~~68076, inclusive, are not required to be included in the report required by NAC 704.2725.

4. A public utility whose rates are:

(a) Subject to the jurisdiction of the Commission as set forth in NRS 704.095 and 704.097; or

(b) Subject to the jurisdiction of the Commission and whose annual jurisdictional revenues are less than \$2,000,000,

↪ is required to comply with the provisions of NAC 704.2725 and 704.273 only when it files an application for a change in general rates.

5. Unless otherwise ordered by the Commission, transactions which relate solely to services which have been approved as part of a public utility's tariff are not required to be included in the report required by NAC 704.2725.

6. Transactions between a public utility and an affiliated financial trust are not required to be included in the report required by NAC 704.2725 if the transactions and issuances involving the utility and trust are subject to the jurisdiction of, and have been specifically approved by, another state or federal regulatory agency. If such transactions and issuances are not included in the report required by NAC 704.2725, the report must include, for informational purposes, the information filed with the other regulatory agency for approval of the transactions and issuances.

[TARIFFS]

Sec. 75. NAC 704.375 is hereby amended to read as follows.

1. *Except as otherwise provided in subsection 2, ~~the~~* the provisions of NAC 703.375 to 703.410, inclusive, govern the filing and posting requirements of tariff schedules for rates, rules, regulations and contracts relating to rates applicable to gas, electric, telephone, telegraph and community antenna television companies and water and sewer utilities.

2. *A competitive supplier is not required to maintain or file any schedule or tariff with the Commission except for the rates, pricing, terms and conditions of intrastate switched or special access service as provided in Section 26 of AB 518.*

[CONSUMER BILL OF RIGHTS]

Sec. 76. NAC 704.404 is hereby amended to read as follows.

The provisions of NAC 704.395 to 704.421, inclusive:

1. Apply to telephone service furnished to residential customers by a provider of basic *network* service ~~[which provides service through 10,000 or more access lines].~~

2. Provide guidance to a *small-scale* provider of ~~[basic service]~~ *last resort* which provides service through less than 10,000 access lines regarding the scope and substance of the issues which must be addressed in the tariffs that must be filed with the Commission.

[ISSUANCE OF SECURITIES]

Sec. 77. NAC 703.430 is hereby amended to read as follows.

1. *Except as otherwise provided in subsection 2, ~~the~~* the provisions of NAC 703.430 to 703.441, inclusive, apply to an application filed by a privately owned public utility organized under the laws of, and operating in the State, for an order by the Commission authorizing the issuance of a security, as defined in NRS 704.322, or the assumption of an obligation as a

guarantor, endorser, surety or otherwise, with respect to any security of any other person, firm or corporation.

2. The provisions of NAC 703.430 to 703.441, inclusive, do not apply to a competitive supplier .

[INSIDE WIRING]

Sec. 78. *The provisions of NAC 704.681 to 704.683, inclusive, do not apply to a competitive supplier.*

Sec. 79. NAC 703.6815 is hereby amended to read as follows.

A *small-scale* provider of last resort ~~[of basic service]~~ shall, upon request, provide installation and repair of simple inside wiring.

Sec. 80. NAC 704.682 is hereby amended to read as follows.

A *small-scale* provider of last resort ~~[of basic service]~~ is not required to file tariffs for services offered by the provider related to inside wiring. Unless otherwise ordered by the Commission, the revenues, expenses, and rate base for such services must be used for rate making.

Sec. 81. NAC 704.6825 is hereby amended to read as follows.

1. A *small-scale* provider of last resort ~~[of basic service]~~ shall separately identify on a customer's bill, other than a customer of Centrex, any charges for maintaining inside wiring and clearly indicate that such maintenance is an optional service.

2. A *small-scale* provider of last resort ~~[of basic service]~~ may not charge a new customer for maintaining inside wiring unless the customer specifically requests the service.

3. Before January 1, 1991, and every 2 years thereafter, a *small-scale* provider of last resort ~~[of basic service]~~ shall include in each customer's bill:

- (a) Notification that maintenance of inside wiring is an optional service;
- (b) A description of that service; and
- (c) The telephone number to call to initiate or terminate the service.

[ALTERNATIVE OPERATOR SERVICES]

Sec. 82. NAC 704.685, 704.6858, 704.686, 704.6864, 704.6866, 704.6867, 704.6868, 704.6872, 704.6874, 704.6876, 704.6878, 704.688, 704.6882, 704.6884, 704.6886, and 704.6888 are hereby repealed.

[INTERCARRIER DISPUTE RESOLUTION]

Sec. 83. NAC 704.68035 is hereby amended to read as follows.

As used in NAC 704.68035 to 704.680365, inclusive, unless the context otherwise requires:

1. "Complaint" means a complaint filed by one ~~[provider of]~~ telecommunication ~~[services]~~ *provider* against another ~~[provider of]~~ telecommunication ~~[service]~~ *provider*.

2. "Telecommunication provider" or "telephone company" has the meaning ascribed to it in section 12 of AB 518.

[ADJUSTMENT OF INTRASTATE CHARGES]

Sec. 84. Chapter 704 of NAC is hereby amended by adding thereto the following provision.

1. The provisions of NAC 704.7501 to 704.7591, inclusive, do not apply to a competitive supplier.

2. A competitive supplier that is an incumbent local exchange carrier shall not change any rates, pricing, terms and conditions of intrastate switched or special access except upon the filing and approval of a letter of advice pursuant to section 23(3) of AB 518, which letter of advice must include:

(a) Prices for intrastate switched or special access that do not exceed the interstate switched or special access prices charged by the carrier as authorized by Federal Communication Commission, and

(b) All the relevant information filed with the Federal Communication Commission that demonstrate the proposed prices do not exceed the interstate switched or special access prices charged by the carrier as authorized by Federal Communication Commission.

3. A competitive supplier that is an incumbent local exchange carrier which requests a deviation from subsection 2 must fully demonstrate that the requested deviation is reasonable and appropriate by filing a letter of advice which includes all relevant Federal Communication Commission filings and corresponding federal tariffs, if applicable, as well as all supporting documents and costs studies.

4. A letter of advice filed pursuant to subsections 2 or 3 shall be deemed approved if the Commission does not otherwise act on the letter of advice within 120 days after the letter of advice is filed with the Commission.

[RESALE OF INTRASTATE LONG DISTANCE]

Sec. 85. NAC 704.424 is hereby amended to read as follows.

1. Except as otherwise provided in subsection 2, or as ordered by the Commission, no telephone company which provides a customer with intrastate long-distance telephone service may prohibit the customer from reselling or sharing that service, but the company may require the customer to subscribe to sufficient lines to avoid any blockages within the company's system which might adversely affect any of its other customers.

2. The provisions of subsection 1 do not apply to a competitive supplier.

[900 NUMBERS]

Sec. 86. NAC 704.4242 is hereby amended to read as follows.

~~[As used in NAC 704.4242 to 704.42439, inclusive, unless the context otherwise requires:~~

~~1. "Preamble" means the prerecorded message which is played to a customer of a provider of information before any information is provided to the customer as required by NAC 704.42423.~~

~~2. "Provider of information" means a person who provides information for a fee through the use of a telephone number with a prefix of 900.]~~

1. The Commission hereby adopts by reference:

(a) The pay-per-call standards of the Federal Communications Commission, 47 C.F.R. §§ 64.1501 to 64.1515, inclusive, and all definitions applicable to those sections; and

(b) Any amendments made to those rules and definitions by the Federal Communications Commission.

2. The provisions 47 C.F.R. §§ 64.1501 to 64.1515, inclusive, may be purchased from the Superintendent of Documents, United States Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, or toll-free at (866) 512-1800 for the price of \$40. Those provisions are also available, free of charge, from the Government Printing Office at the Internet address <http://www.gpoaccess.gov/cfr/index.html>.

Sec. 87. NAC 704.4243, 704.42425, 704.42423, 704.42427, 704.4243, 704.42433, 704.42435, 704.42437 and 704.42439 are hereby repealed.

[LIMITATIONS ON OWNERSHIP OF INFORMATION & PROMOTIONAL SERVICE]

Sec. 88. *The provisions of NAC 704.4245 to 704.42478, inclusive, do not apply to a competitive supplier.*

Sec. 89. NAC 704.4245 is hereby amended to read as follows.

1. Except as otherwise provided in subsection 2, a *small-scale* provider of ~~[basic service]~~ *last resort that is not a competitive supplier* shall not own or control the content of the information traveling through its transmission lines.

2. The Commission will authorize a provider of basic *network* service to own or control the content of the information traveling through its transmission lines if the Commission determines, after a hearing, that the provider will not impede competition by its control of the local network.

3. A provider of basic *network* service may apply in writing to the Commission for permission to own or control the content of the information traveling through its transmission lines.

4. The Commission will act upon such an application within 90 days after it is filed unless a protest is received from:

(a) The staff of the Commission;

(b) A person given permission to intervene by the Commission; or

(c) The Bureau of Consumer Protection within the Office of the Attorney General. → If such a protest is received, the Commission will act upon an application within 180 days after its receipt.

5. As used in this section, “own or control”:

(a) Includes any interest in the content of information which the provider has, or has caused to be, authored, produced, originated, collected, compiled, edited, categorized or indexed.

(b) Does not include an interest in information needed:

(1) To operate the telecommunications network.

(2) For services such as time information, weather information, the announcement of emergency information or directory assistance whereby a person obtains a telephone number and an address only.

Sec. 90. NAC 704.4247 is hereby amended to read as follows.

As used in NAC 704.4247 to 704.42478, inclusive, “promotional service” means a service that is offered by a *small-scale* provider of last resort ~~[of basic service]~~ to its customers:

1. For a limited time only; or
2. At a specific price for a limited time only.

Sec. 91. NAC 704.42476 is hereby amended to read as follows.

A *small-scale* provider of *last resort* ~~[telecommunication service]~~ may offer and provide a promotional service whose rates, charges, terms, and conditions are not reflected in a filed tariff, upon 1-day written notice to the Commission. The notice must give a general description of the service and indicate the rate or charge.

Sec. 92. NAC 704.42478 is hereby amended to read as follows.

After offering a promotional service, a *small-scale* provider *of last resort* may apply to the Commission for inclusion of the promotional service as a tariffed service. The application to the Commission must contain rate schedules and tariff sheets that comply with the requirements of NAC 703.375 to 703.410, inclusive.

[SHARED TENANT SERVICES]

Sec. 93. 1. *The provisions of NAC 704.689 through 704.68966, inclusive, apply only to a small-scale provider of last resort.*

2. *The provisions of NAC 704.68906, 704.68913 and 704.6897 apply to a small-scale provider of last resort and a competitive supplier.*

[CONFINEMENT SERVICES]

Sec. 94. NAC 704.7495 is hereby amended to read as follows.

1. *The Commission hereby adopts by reference:*

(a) The operator services for prison inmate phone standards of the Federal Communications Commission, 47 C.F.R. § 64.710, and all definitions applicable to that section; and

(b) Any amendments made to those rules and definitions by the Federal Communications Commission.

2. *The provisions of 47 C.F.R. § 64.710, may be purchased from the Superintendent of Documents, United States Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, or toll-free at (866) 512-1800 for the price of \$40. Those provisions are also available, free of charge, from the Government Printing Office at the Internet address <http://www.gpoaccess.gov/cfr/index.html>.*

Sec. 95. NAC 704.74952, 704.74954, 704.74956, 704.74958, 704.7496, 704.74962, 704.74964, 704.74966, 704.74968, 704.7497, 704.74972, 704.74974, 704.74976, 704.74978, 704.7498, 704.74982 and 704.74984 are hereby repealed.

[COIN-OPERATED PAY TELEPHONE SERVICE]

Sec. 96. NAC 704.75914 is hereby amended to read as follows:

“Public telephone” ~~[has the meaning ascribed to it in NAC 704.686]~~ *means a telephone accessible to the public, including any customer-owned pay telephone.*

Sec. 97. NAC 704.75915 is hereby amended to read as follows:

“Semi-public telephone” ~~[has the meaning ascribed to it in NAC 704.6864]~~ *means a telephone made accessible to the public by the subscribing customer. The term includes a telephone provided for use by the occupant of a room in a hospital, hotel, motel or any other facility in which the occupant is charged for the use of the telephone.*

Sec. 98. NAC 704.75917 is hereby amended to read as follows:

Display of information at or near payphone. At the commencement of providing payphone service at a payphone, the provider of payphone service shall cause the following information to be displayed conspicuously at or near the payphone:

1. The name and toll-free telephone number of the provider of payphone service for reporting and resolving any complaint regarding service;
2. The address and telephone number of the Division of Consumer Complaint Resolution of the Commission;
3. The telephone number and address or other description of location of the payphone;
4. The amount of the charge for a local call and local directory assistance and information relating to any time limits associated with the charge for a local call;
5. On public payphones at which incoming calls are blocked, a notice printed in red and in boldface type which states that the payphone does not receive incoming calls; and
6. Dialing instructions for obtaining emergency service and repair service.

Sec. 99. NAC 704.68474, 704.68476, 704.68478, 704.6848, 704.68482, 704.68484, 704.68486, 704.68488, 704.6849, 704.68492, 704.68494, 704.68496, 704.68498, 704.68078, 704.6808, 704.68022 and 704.68024 are hereby repealed.

TEXT OF REPEALED SECTIONS

NAC 704.0057 “Cable service” defined. “Cable service” means:

1. One-way transmission to subscribers of video programming or other programming service; and
2. Subscriber interaction, if any, which is required for the selection of such video programming or other programming service, in accordance with 47 U.S.C. §§ 521 et seq.

NAC 704.0062 “Competitive provider of basic service” defined. “Competitive provider of basic service” means a provider of telecommunication service, other than a provider of last resort of basic service, which offers basic service within the exchange in which it operates or proposes to operate.

NAC 704.0063 “Competitive provider of telecommunication service” defined. “Competitive provider of telecommunication service” means a provider of telecommunication service other than a provider of last resort of basic service.

NAC 704.00866 “Large provider of last resort of basic service” defined. (NRS 703.025, 704.210) “Large provider of last resort of basic service” means a provider of last resort of basic service providing basic service to customers under the jurisdiction of the Commission through 10,000 or more access lines.

NAC 704.00874 “Provider of basic service” defined. “Provider of basic service” includes a competitive provider of basic service and a provider of last resort of basic service.

NAC 704.00886 “Total service long-run incremental cost” defined. (NRS 703.025, 704.210) “Total service long-run incremental cost” means all forward-looking cost anticipated to be caused by the entire quantity of demand for a service or component thereof, expressed on an annual basis, as determined in accordance with NAC 704.0095.

NAC 704.0093 Telecommunication service includes products. (NRS 703.025, 704.210) For the purposes of this chapter, a service provided by a provider of telecommunication service includes products.

NAC 704.0095 Components of total service long-run incremental cost. (NRS 703.025, 704.210) The total service long-run incremental cost consists of a levelized capital component and a levelized expense component. The capital component may be expressed as the annuity equivalent of the cost of the capital investment caused by the service over the economic life of the capital investment. The levelized expense component may be expressed as the annuity equivalent of the operating and maintenance expenses caused by the service over a relevant period of planning. The relevant period of planning must be a time over which the rate of inflation and operating and maintenance activities can be reasonably anticipated. The forward-looking cost anticipated to be caused by the entire quantity of demand for a service or component thereof is equal to the cash expenses and capital expenditures of the provider of the service, less the cash expenses and capital expenditures of the provider without the service, holding constant all other service output quantities of the provider.

NAC 704.74945 Rates, terms and conditions for competitive provider of basic service. (NRS 703.025, 704.210)

1. The Commission will not establish the rates for basic service provided by a competitive provider of basic service.
2. A competitive provider of basic service does not need to file the terms and conditions of basic service which it provides with the Commission for review and approval. A competitive provider of basic service shall file the terms and conditions of basic service with the Commission for informational purposes only. The filing must include a statement that the Commission has not approved the terms and conditions. The terms and conditions of such service must provide that a customer, upon request, may avail itself of the service of a provider of last resort of basic service. If the provider of last resort of basic service does not own the facilities which could provide access to its switch, the Commission will resolve any disputes regarding whether or to what extent compensation will be provided for the use of those facilities.

NAC 704.68022 Statutory exemptions; requirements for provider of confinement service. (NRS 703.025, 704.210)

1. A provider of last resort of basic service regulated under a plan of alternative regulation established in accordance with NAC 704.68474 to 704.68498, inclusive:

(a) May change the rates for all services, other than those classified as a basic service, in a manner consistent with the provisions of NAC 704.68474 to 704.68498, inclusive, or 704.7475, as appropriate, without complying with the provisions of NRS 704.100 and 704.110.

(b) May change the terms and conditions applicable to a competitive service without complying with the provisions in NRS 704.070 to 704.120, inclusive.

2. Except as otherwise provided in subsection 3, a competitive provider of telecommunication service:

(a) May provide services, other than those which are classified as a basic service, without complying with the provisions of NRS 704.070 to 704.120, inclusive.

(b) May provide and change the rates for basic service in conformance with the provisions of NAC 704.74945 without complying with the provisions of NRS 704.070 to 704.120, inclusive.

3. A competitive provider of telecommunication service which provides confinement service shall comply with the provisions of NAC 704.7495 to 704.74984, inclusive, for the purposes of the confinement service, except that a competitive provider of telecommunication service need not comply with the provisions of NAC 703.400. As used in this subsection, “confinement service” has the meaning ascribed to it in NAC 704.74958.

NAC 704.68024 Certification, classification and regulation. (NRS 703.025, 704.210)

1. A provider of telecommunication service subject to the regulation of the Commission must be certificated by the Commission before providing service and must be classified as a provider of last resort of basic service or as a competitive provider of telecommunication service.

2. A competitive provider of telecommunication service includes all providers of telecommunication service other than providers of last resort of basic service, including:

(a) Interexchange carriers.

(b) Intraexchange carriers.

(c) Competitive providers of basic service.

(d) Providers of confinement services.

(e) Providers of operator services.

(f) Resellers.

3. A provider of last resort of basic service will be regulated:

(a) Pursuant to those provisions of NRS 704.110 which provide for traditional rate base regulation; or

(b) Pursuant to the provisions of NRS 704.040 which provide for a plan of alternative regulation as described in NAC 704.68474 to 704.68498, inclusive.

NAC 703.25024 “Large provider of last resort of basic service” defined. “Large provider of last resort of basic service” means a provider of last resort of basic service providing basic service to customers under the jurisdiction of the Commission through 10,000 or more access lines.

[REGULATORY PAR]

NAC 704.68474 Definitions. (NRS 703.025, 704.040, 704.210) As used in NAC 704.68474 to 704.68498, inclusive:

1. "Category of services" means the classification of the services offered by a provider of last resort of basic service as either essential, discretionary, competitive or deregulated.
2. "Plan of alternative regulation" means a plan of regulation adopted pursuant to NAC 704.68474 to 704.68498, inclusive, which provides an alternative to rate base regulation for providers of last resort of basic service.

NAC 704.68476 Application for regulation under plan. (NRS 703.025, 704.040, 704.210)

1. A provider of last resort of basic service may apply to be regulated under a plan of alternative regulation pursuant to the provisions of NAC 704.68474 to 704.68498, inclusive. The application must be filed with the Commission and accompanied by the following:

(a) A general rate case filed pursuant to NAC 703.2501 to 703.2711, inclusive, or a statement of the results of operations which reflect the revenue requirements of the provider. The statement of the results of operation must be:

- (1) In a format specified in statement H as described in NAC 703.2601 or Form G as described in NAC 703.27132, or any other similar format;
- (2) Concurred in by the staff of the Commission and the Consumer's Advocate; and
- (3) Approved by the Commission after an opportunity for comment or a request for a hearing by any interested party.

(b) A description and schedule of the proposed rates and tariffs described in NAC 703.2685 appropriate for the proposed categories of service.

(c) A schedule specifying the proposed category of each service in existence at the time the application is filed.

(d) For those services the provider proposes to classify or reclassify as discretionary or competitive, the information and documentation required pursuant to NAC 704.68062 to classify a service.

(e) For those services which have been previously classified by the Commission as discretionary, competitive or deregulated and for which no change in classification is requested, an exhibit which identifies the services and includes a reference to the order or action pursuant to which the classification was made or approved.

(f) A proposal which sets forth proposed standards to evaluate the quality of essential and discretionary services, including a specific plan by which:

(1) The availability of basic service will be annually evaluated and reported in terms of the percentage of residences and the percentage of businesses that are supplied with basic service in the various geographical areas comprising a provider's service territory, taken in consideration of similar percentages applicable during the most recent annual period before the adoption of the plan of alternative regulation by the provider, any intervening changes in economic conditions, customer locations, number of providers of telecommunication service and any other relevant factors; and

(2) The reliability of basic service will be annually evaluated and reported in terms of the length of time required to provide the component which includes the dial tone of basic service to residences and businesses in the various geographical areas comprising a provider's service territory, taken in consideration of similar times applicable during the most recent annual period

before the adoption of the plan of alternative regulation by the provider, any intervening changes in the rates of completing calls, times in delays of calls and any other relevant factors.

(g) A statement setting forth the manner in which the provider will monitor and maintain the quality of the essential services which it provides.

(h) A plan setting forth the manner in which the provider will modernize its equipment and facilities and extend or improve basic service during the term of the plan, and the manner in which the provider will monitor and report to the Commission on the implementation and progress of the plan, including a review of the efforts of the provider to modernize its services and facilities during the previous 5 years.

(i) The proposed scope of any change, because of exogenous factors, in rates for other essential services or in the range of rates for discretionary services.

(j) A statement setting forth a proposed schedule for filing the reports required by NAC 704.6849 and a proposed format for the reports.

(k) An explanation of the action that the provider proposes to take during the term of its participation in the plan to ensure that the rates for depreciation and amortization that will be applied during the term of the plan will minimize to the extent feasible any understatement or overstatement of plant balances at the end of the plan.

2. The Commission will act upon an application filed pursuant to this section within 180 days after it is filed.

NAC 704.68478 Term of participation in plan. (NRS 703.025, 704.040, 704.210)

1. A provider shall select the duration of the period to be regulated under the plan of alternative regulation pursuant to paragraph (d) of subsection 4 of NRS 704.040. The provider may, pursuant to NAC 704.68498, request approval to continue its participation in the plan of alternative regulation for successive terms. If the provider makes such a request, the provider shall select the duration of each successive term in accordance with paragraph (d) of subsection 4 of NRS 704.040.

2. Within 120 days after the issuance of an order by the Commission specifying the terms and conditions of the provider's participation in a plan of alternative regulation, including a successive term of a plan of alternative regulation, the provider may provide written notification to the Commission selecting a period that is not less than 3 years and not more than 5 years.

NAC 704.6848 Conditions required for entry into plan. (NRS 703.025, 704.040, 704.210) If the Commission authorizes the provider to be regulated in accordance with a plan of alternative regulation, the Commission will, as a condition of entry into such a plan, specify the conditions of entry into that plan of alternative regulation which:

1. Specify the rate at which each basic service will be capped during the term of the plan.

2. Require the terms and conditions of basic service to be subject to complete tariffing requirements, including conformance with the provisions of NAC 704.395 to 704.421, inclusive, and 704.68028, where applicable.

3. Specify the rates for other essential services and the minimum rates that may be charged for discretionary services, both of which will become effective at the time of entry into the plan of alternative regulation.

4. Require the terms and conditions of the other essential and discretionary services to be subject to complete tariffing requirements, including conformance with the provisions of NAC 704.395 to 704.421, inclusive, and 704.68028 where applicable.

5. Authorize the provider to adjust its rates for intrastate switched access, exclusive of the charge for a common carrier line, and its rates for its elements of tariffed cellular interconnection, to the extent that such elements correspond to the rates for interstate access, so that those rates will be in parity with its rates for interstate switched access at the time of entry into the plan.

6. Specify the standards for quality of service which the provider must meet pursuant to paragraph (f) of subsection 1 of NAC 704.68476 during the term of its participation in the plan of alternative regulation, including the procedures which will govern the mandatory investigation by the Commission if a decrease in the availability or reliability, or both, of basic service occurs under the plan.

7. Specify the modernizations, expansions or improvements of the system required as a condition of the provider's participation in the plan of alternative regulation.

8. Specify the category of service for each of the services offered by the provider at the time of entry into the plan of alternative regulation if the applicant has requested a change in the classification of a service.

9. Specify any other terms and conditions of the provider's participation in the plan of alternative regulation.

10. Specify the date on which the provider's entry is approved. The date of actual commencement of the plan of alternative regulation must be within 60 days after the issuance of an order by the Commission specifying the terms and conditions of the provider's participation in the plan, unless a later date is approved by the Commission.

**NAC 704.68482 Caps on rates; changes in rates during term of participation in plan.
(NRS 703.025, 704.040, 704.210)**

1. All rates for basic service will be capped by the Commission pursuant to NAC 704.68474 to 704.68498, inclusive, during the term of the provider's participation in the plan of alternative regulation. The rate for basic service, and the corresponding cap, may be reduced subject to the following conditions:

(a) The rate for basic service, and the corresponding cap, may be reduced without a hearing by an amount not to exceed 10 percent in any year in which the provider participates in the plan of alternative regulation. A rate which is reduced in accordance with this paragraph becomes effective 30 days after a tariff is filed by the provider to reduce those rates.

(b) A decrease in the rate for basic service in excess of 10 percent must be accompanied by a showing that the resulting prices appropriately balance the interests of affected customers, competitors of the provider and the provider. The Commission may hold a hearing. The Commission will issue a decision on a request to reduce rates in accordance with this paragraph within 90 days after the date on which the request is received.

2. Except as otherwise provided in subsection 5, the rate for any other essential service, including the rate for switched access and tariffed cellular interconnection, may be changed during the term of the plan subject to the following terms and conditions:

(a) Except as otherwise provided in paragraph (e), a rate for any other essential service may be increased or decreased without a hearing by an amount not to exceed 5 percent in any annual period, to be effective 30 days after the submission of a tariff filing to change those rates.

(b) Except as otherwise provided in paragraph (e), the rate for an individual service may not be increased by more than 20 percent over the 5-year term or, if applicable, 10 percent over the 3-year term of the plan of alternative regulation.

(c) Any tariff filing which requests a reduction in the rate of any individual service must be accompanied by a demonstration that the rate is not set below the total service long-run incremental cost of the service.

(d) An increase in the rate for any other essential service must be offset with a decrease in the rate for any other essential service such that the provider does not experience a net increase in revenues for its essential services.

(e) If a requested change in a rate is in excess of the limits set forth in paragraph (a) or (b), the request must be accompanied by a showing that the resulting prices appropriately balance the interests of affected customers, competitors of the provider and the provider. The Commission may hold a hearing and will render a decision on such a filing within 90 days after the date on which the request is received.

3. The rate for discretionary services must be set at a level which exceeds the total service long-run incremental cost for that service.

4. The rates, terms and conditions for competitive services may be changed by the provider without authorization from the Commission.

5. The Commission will only consider a change in a rate for a discretionary or other essential service without regard to subsection 2 or 3 or subsection 3 of NAC 704.6848 if the change in the rate is requested to account for a change in the rate of taxation levied by a local, state or federal governmental agency which affects the net income of the provider by 5 percent or more in any annual period. A request for a change in the rate may be made upon application of the provider or upon a petition from any other party. The applicant or petitioner has the burden of demonstrating that the change in the rate is appropriate to reflect the change in the tax rate affecting the provider. The Commission will issue a decision on such an application or petition within 90 days after the date on which the application or petition is filed.

NAC 704.68484 Changes in category of service during term of participation in plan. (NRS 703.025, 704.040, 704.210)

1. The category of a service may be changed after a hearing upon:

(a) A request by the provider filed pursuant to NAC 704.68062;

(b) A complaint from a competitor or customer of a provider of last resort of basic service; or

(c) The motion of the Commission.

2. The Commission will utilize the factors set forth in NAC 704.68068 to 704.68074, inclusive, to determine whether a request to change the category of a service should be granted.

NAC 704.68486 Application and procedure for provision of certain new services during term of participation in plan. (NRS 703.025, 704.040, 704.210)

1. Unless the service has been deregulated by the Commission, the provider must apply to the Commission for approval before providing any new service and:

(a) The application must set forth the proposed category of the service and include all appropriate information required for a request to classify a service pursuant to NAC 704.68062.

(b) If the provider contends the new service has been effectively deregulated because the Federal Government has preempted the area, the provider shall notify the Commission before offering the service and cite the authority for the preemption.

2. The Commission will:

(a) Consider the factors set forth in NAC 704.68068, 704.6807 and 704.68072 to determine whether a provider may provide a new service, the category of the new service and the

appropriate rates, terms and conditions applicable to the service. Any service not classified as discretionary, competitive or deregulated must be classified as a basic or other essential service.

(b) Act upon an application filed pursuant to subsection 1 within 90 days after it is filed unless a protest is received from:

- (1) The staff of the Commission;
- (2) A person given permission to intervene by the Commission; or
- (3) The Consumer's Advocate.

If a protest is filed, the Commission will act upon the application within 180 days after the date on which the application is filed.

NAC 704.68488 Limitation on recovery of revenue during term of participation in plan. (NRS 703.025, 704.040, 704.210) A provider of last resort of basic service which is authorized to be regulated pursuant to a plan of alternative regulation may not recover revenue pursuant to NAC 704.7501 to 704.7591, inclusive, during the term of its participation in the plan.

NAC 704.6849 Annual report. (NRS 703.025, 703.191, 704.040, 704.210)

1. A provider of last resort of basic service which is authorized by the Commission to be regulated pursuant to a plan of alternative regulation shall submit an annual report to the Commission.

2. The annual report must contain, in separate sections:

(a) Adequate information to allow the Commission to determine whether the provider is using the sum of the revenues from discretionary, competitive and deregulated services realized by the provider to make an appropriate contribution to the recovery of its total joint and common costs. The information must include:

(1) An analysis which shows that the rate which the provider charges:

(I) Individually for each discretionary service exceeds the individual total service long-run incremental cost of that service; and

(II) Individually for each competitive service is equal to or greater than the total service long-run incremental cost of that service;

(2) An analysis which shows that the revenues which the provider thereby receives:

(I) Collectively from all discretionary services provided by the provider exceed the collective total service long-run incremental cost of all such services;

(II) Collectively from all competitive services provided by the provider are equal to or greater than the collective total service long-run incremental cost of all such services; and

(III) Collectively from all discretionary, competitive and deregulated services provided by the provider exceed the collective total service long-run incremental cost of all such services; and

(3) Adequate information to verify the total annual joint and common costs of the provider, determined on an embedded-cost basis upon entry into a plan of alternative regulation, including updates if there are subsequent material changes in investment and operations.

Nothing in these requirements for the annual report must be interpreted to mean that the Commission is asserting regulatory jurisdiction over deregulated services.

(b) The information and documentation required to be filed with the Commission pursuant to NAC 704.68078.

(c) The information and documentation required to be filed with the Commission pursuant to NAC 704.7483 for Nevada operations, by jurisdiction as set forth in 47 C.F.R. Part 36 as that part existed on October 25, 1995, including adjustments for those items which the Commission

had previously ordered to be adjusted. For the purposes of this paragraph, Nevada jurisdictional business includes revenue and cost associated with inside wiring and yellow pages.

(d) The information needed to evaluate the availability and reliability of basic service pursuant to paragraph (f) of subsection 1 of NAC 704.68476.

NAC 704.68492 Maintenance of separate accounts. (NRS 703.025, 704.040, 704.210) A provider that is authorized by the Commission to be regulated pursuant to a plan of alternative regulation shall maintain separate accounts which comply with the provisions of NAC 704.645 and which enable the provider to return to the system of regulation in place for providers which are not regulated under a plan of alternative regulation.

NAC 704.68494 Depreciation. (NRS 703.025, 704.040, 704.210)

1. A provider that is authorized by the Commission to be regulated pursuant to a plan of alternative regulation does not have to file an application to revise its depreciation rates and is not subject to the provisions of NAC 703.2715 to 703.278, inclusive.

2. The provider shall depreciate its investment at a level which is equal to or greater than that allowed by the Commission in its last approved depreciation review.

3. If a provider is required to undergo a full rate review at the end of the initial term of the plan of alternative regulation pursuant to NAC 704.68496 or 704.68498, the provider shall report the difference between the amount of depreciation expense booked in the 12-month reporting period and the amount that would have been booked using the Commission's last approved rates.

NAC 704.68496 Termination of participation in plan at end of term. (NRS 703.025, 704.040, 704.210)

1. If a provider decides to terminate its participation in a plan of alternative regulation at the end of the term of that plan, the provider shall file a request to terminate its participation in the plan with the Commission not later than 180 days before the end of the term of the provider's authorized participation in the plan. Such a request must include:

(a) A general rate review of operations of the provider for the most recent 12 months for which data is available at the time the request is filed. The general rate review must be in the form specified in NAC 703.2501 to 703.2711, inclusive, for large providers of last resort of basic service or NAC 703.2501 to 703.2509, inclusive, and 703.27116 to 703.27146, inclusive, for small providers of last resort of basic service.

(b) A report on the status of the modernizations, expansions or improvements of the system which were ordered by the Commission when the provider entered into the plan of alternative regulation.

(c) A report on the status of the quality of basic and other essential services.

(d) The analysis required by paragraph (a) of subsection 2 of NAC 704.6849.

2. After a review and hearing by the Commission, the Commission will issue an order which:

(a) Specifies the type of regulation which will be applicable to the provider at the end of the term of the plan of alternative regulation.

(b) Establishes the rates, terms and conditions for basic, essential and discretionary services consistent with the type of regulation which will be applicable to the provider.

(c) If the continued regulation of the provider will be based wholly or partially on the level of its rate base, establishes the level of rate base.

NAC 704.68498 Continuation of participation in plan at end of term. (NRS 703.025, 704.040, 704.210)

1. If the provider wants to continue its participation in the plan of alternative regulation, the provider shall file a request to continue its participation in the plan with the Commission not later than 180 days before the end of the provider's authorized participation in the plan. Such a request must include:

(a) An analysis of the results of operation of the provider for the most recent 12 months for which data is available at the time of filing.

(b) A report on the status of the modernizations, expansions or improvements of the system which were ordered by the Commission when the provider entered into a plan of alternative regulation.

(c) An analysis which sets forth the amount of contribution made by the revenues from discretionary, competitive and deregulated services toward the total joint and common costs of the provider, as determined by paragraph (a) of subsection 2 of NAC 704.6849.

(d) A report on the status of:

(1) The availability of new products and technologies;

(2) Rate levels and rate design; and

(3) The extent of competition, relative to other jurisdictions.

2. If the provider wants to make an adjustment in basic rates, the provider must include with its request to continue its participation in the plan the filing required by NAC 704.68476.

3. After a review and hearing, the Commission will issue an order which:

(a) Specifies the type of regulation which will be applicable to the provider at the end of the term of the plan of alternative regulation;

(b) Establishes the rates, terms and conditions for basic, essential and discretionary services consistent with the type of regulation which will be applicable to the provider;

(c) Specifies any additional requirements which must be met to satisfy the terms and conditions applicable to the provider's participation in the plan of alternative regulation; and

(d) If the continued regulation of the provider will be based wholly or partially on the level of its rate base, establishes the level of rate base.

4. At the time when a provider files its request to continue participation in a plan of alternative regulation, any party may seek to modify the terms of the plan, if the plan as modified would be consistent with NAC 704.68474 to 704.68498, inclusive. A party may seek a full rate review pursuant to NAC 703.2501 to 703.27146, inclusive, as appropriate, only if there is a material change, upon renewal, in the terms and conditions of the plan with respect to basic service and if there has been a decrease in the availability and reliability of basic service under the plan. If a decrease in the availability or reliability, or both, of basic service has occurred under the plan, the Commission will institute an investigation into the causes of the decrease within the context of a full rate review. If no decrease in the availability or reliability, or both, has occurred under the plan, the Commission will not institute a full rate review unless the moving party can demonstrate that harm to the public interest would result if the full rate review is not held.

[LARGE CARRIERS' TELRIC RATES]

NAC 704.68078 Annual report of certain large providers of last resort. (NRS 703.025, 704.210)

A large provider of last resort of basic service which has 50,000 or more access lines, which is regulated pursuant to NAC 703.2501 to 703.2711, inclusive, and which provides a service that has been classified as discretionary, competitive or deregulated shall include with its annual report:

1. If the service has been deregulated and the provider is not regulated according to the terms of a plan of alternative regulation as set forth in NAC 704.68474 to 704.68498, inclusive:

(a) The direct cost of the service accounted for pursuant to the Uniform System of Accounts; and

(b) The method of determining, and the amount of, the common costs and general overhead expenses allocated, as determined pursuant to the apportionment rules set forth in 47 C.F.R. Part 64, as those rules existed on October 25, 1995.

2. If the service has been reclassified as a competitive or discretionary service, and the provider is not regulated according to the terms of a plan of alternative regulation as set forth in NAC 704.68474 to 704.68498, inclusive:

(a) The direct cost of and revenue from the service accounted for pursuant to the Uniform System of Accounts as set forth in 47 C.F.R. Part 32; and

(b) The method of determining, and the amount of, the common costs and general overhead expenses allocated to each account of the Uniform System of Accounts as set forth in 47 C.F.R. Part 32.

3. If the service has been reclassified as a competitive or discretionary service, adequate information to verify that the rate charged and the price of each service will recover at least the total service long-run incremental cost associated with that service, consistent with paragraph (e) of subsection 1 of NAC 704.68062.

4. If the service has been reclassified as a competitive or discretionary service and it includes a component classified as an essential service, information sufficient to demonstrate that the price for the service covers the combined tariffed rates for all essential service components plus the total service long-run incremental cost of any component of the service which is not classified as an essential service, consistent with paragraph (f) of subsection 1 of NAC 704.68062.

5. If the provider is not regulated according to the terms of a plan of alternative regulation as set forth in NAC 704.68474 to 704.68498, inclusive, adequate information to verify that the sum of the earnings from essential and discretionary services is not subsidizing the earnings from the service which has been classified as competitive or deregulated. For the purposes of this subsection, the fully allocated embedded cost must be used as a basis for calculating earnings.

NAC 704.6808 Rate charged for discretionary or competitive service; exemption. (NRS 703.025, 704.210)

1. Except as otherwise provided in this section, the rate charged by a provider for a service classified as a discretionary or competitive service must recover an amount which is equal to or greater than the total service long-run incremental cost for each unit associated with that service, consistent with the standards set forth in paragraphs (e) and (g) of subsection 1 of NAC 704.68062. Except as otherwise provided in this section, if a service classified as a competitive

or discretionary service includes a component which is classified as an essential service, the price for the competitive or discretionary service must cover the combined tariffed rates for all components of the essential service plus the total service long-run incremental cost of any component of the service which is not classified as an essential service, consistent with the standards set forth in paragraphs (f) and (g) of subsection 1 of NAC 704.68062.

2. The provisions of this section do not:

(a) Preclude a provider from carrying out temporary promotional offerings, in accordance with NAC 704.4247 to 704.42478, inclusive, during which the prices for promotional offerings may be less than the total long-run incremental cost for each unit.

(b) Apply to a small provider of last resort of basic service which is regulated pursuant to NAC 703.2501 to 703.2509, inclusive, and 703.27116 to 703.27146, inclusive.

[ALTERNATIVE OPERATOR SERVICES]

NAC 704.685 Definitions. As used in NAC 704.685 to 704.6888, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.6858, 704.686 and 704.6864 have the meanings ascribed to them in those sections.

NAC 704.6858 “Provider of alternative operator services” defined. “Provider of alternative operator services” means a reseller who provides manual or automated long distance services accessible from a public telephone or semi-public telephone in this State and provides credit card, collect, information or other operator services.

NAC 704.686 “Public telephone” defined. “Public telephone” means a telephone accessible to the public, including any customer-owned pay telephone.

NAC 704.6864 “Semi-public telephone” defined. “Semi-public telephone” means a telephone made accessible to the public by the subscribing customer. The term includes a telephone provided for use by the occupant of a room in a hospital, hotel, motel or any other facility in which the occupant is charged for the use of the telephone.

NAC 704.6866 Applicable law. Except to the extent that the subject matter of any such provision renders it inapplicable, a provider of alternative operator services is subject to all the provisions of statute and regulation applicable to a public utility operating in this State, including any provision governing quality of service.

NAC 704.6867 Adoption of federal regulations.

1. The Commission hereby adopts by reference the regulations regarding the blocking of access to a desired provider of services which are contained in 47 C.F.R. Part 64.704, as those regulations exist on July 10, 1992. This part may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, at the price of \$17.

2. The provisions of 47 C.F.R. Part 64.704 apply to the intrastate operations of carriers.

3. The words and terms used in 47 C.F.R. Part 64.704 have the meanings ascribed to them in that code, notwithstanding any different definition which may be set forth in applicable portions of NRS or NAC.

NAC 704.6868 Application for certificate of public convenience and necessity.

1. Any applicant who desires to provide alternative operator services must apply to the Commission for and be granted a certificate of public convenience and necessity specifically authorizing it to provide such services.

2. In addition to complying with the provisions of NAC 704.7472, an application made pursuant to this section must contain a statement in the form of a tariff of the applicant's proposed rates and charges, terms, conditions, and classifications for the services proposed to be offered.

NAC 704.6872 Rates for services.

1. A provider shall charge the end user for alternative operator services:

(a) The rate that the provider demonstrates to the Commission is reasonable and not contrary to the public interest.

(b) A rate from a schedule, filed by the provider with the Commission, of the minimum and maximum rates for each time period of the day.

2. A provider shall comply with the provisions of NAC 704.7475 and 704.7477 regarding the filing of a schedule of rates, charges, terms and conditions.

NAC 704.6874 Contracting for billing and collection by another carrier. A provider of alternative operator services may contract with a billing agent for the use of its services for billing and collection if all the following conditions are met:

1. The provider of alternative operator services certifies to the billing agent that it is abiding by the provisions of NAC 704.6866 to 704.6888, inclusive.

2. Each bill for service from the provider of alternative operator services or its billing agent meets the requirements of NAC 704.6876.

3. Basic service must not be terminated because of the failure of an end user to pay a charge for alternative operator services.

4. The billing agent annually provides general information concerning alternative operator services to all customers in the form of a bill insert or an advertisement which is a quarter page of a newspaper that includes a description of alternative operator services, indicating:

(a) Where and how access to such services may occur;

(b) The manner in which the bills of the customer are affected by the contract; and

(c) The procedure for contacting the Commission to resolve any question or complaint.

NAC 704.6876 Information required on bill for services. Each bill for service from a provider of alternative operator services to an end user must contain specific information to help a customer resolve any question or disagreement concerning the charges for service, including:

1. The name of the provider of alternative operator services; and

2. A toll-free number for contacting the provider of alternative operator services or its billing agent.

NAC 704.6878 Liability for unverified third-party billing. A provider of alternative operator services shall accept the cost and assume the risk on all unverified third-party billing.

NAC 704.688 Restrictions on billing; handing off call to secondary carrier. A provider of alternative operator services:

1. Shall not bill to the end user, either directly or indirectly, any surcharge for service added by the owner of the premises on which a telephone is located.
2. May bill for service only from the point of origin to the point of termination of each call.
3. May hand off a call to a secondary carrier only at the point of origin of the call by the end user. If the provider of alternative operator services is technologically unable to hand off the call to a secondary carrier at the point of origin, it may not complete the call and must instruct the end user to terminate the call and dial the preferred carrier directly.

NAC 704.6882 Direction of certain calls to appropriate provider of last resort of basic service

1. Any telephone providing access to alternative operator services must direct the following calls to the appropriate provider of last resort of basic service:
 - (a) All 0 minus calls after connection to an outside line.
 - (b) Emergency 911 calls.
 - (c) Other emergency calls.
2. As used in this section, “0 minus call” means a telephone call dialed by the end user for which the first digit is “0” and no additional digit is dialed within 5 seconds.

NAC 704.6884 Display of information near telephone; proof of compliance.

1. A provider of alternative operator services shall cause the following information to be displayed conspicuously near each public or semi-public telephone providing presubscribed access to alternative operator services:
 - (a) The name, address and telephone number of the provider of alternative operator services;
 - (b) The toll-free telephone number of the provider of alternative operator services for reporting and resolving any complaint about service, billing or rates;
 - (c) The address and telephone number of the Division of Consumer Complaint Resolution of the Commission;
 - (d) The procedure for obtaining information concerning rates;
 - (e) Dialing instructions for obtaining emergency service and operator service provided by the carrier of the caller’s choice; and
 - (f) The amount of any surcharge billed by the owner or operator of the premises where the telephone is located.
2. A provider of alternative operator services shall, at the time it makes its application pursuant to NAC 704.6868 and at such other times as requested by the Commission, furnish the Commission with proof of compliance with the provisions of this section.

NAC 704.6886 Announcements upon placement of call. Whenever a call is placed by an end user, the provider of alternative operator services shall announce to the end user:

1. The complete name of the provider of alternative operator services handling the call in the following manner:
 - (a) In the case of an operator-assisted call, before the call is processed; and
 - (b) In the case of a call processed electronically using a credit card, at the end of the dialing sequence and before connection; and
2. If requested, the method for obtaining without charge information concerning rates.

NAC 704.6888 Provision of information concerning access to another carrier. If requested by the end user, the provider of alternative operator services shall provide the following information at no charge to the end user:

1. The method for obtaining access to the end user's choice of provider of basic service; and
2. If the interexchange carrier is an equal access company serving the area, the method for obtaining access to an interexchange carrier of the caller's choice.

[900 NUMBERS]

NAC 704.42425 Specific identifiable point of beginning for charges required. A provider of information shall not charge a customer for any information it provides until after a specific identifiable point during the call such as a signal tone, which must not occur until after the preamble.

NAC 704.42427 Prevention by provider of last resort of basic service of calls to provider of information; requirements; charges.

1. A provider of last resort of basic service shall, if it has the technological capability, offer a service to its customers upon request to prevent telephone calls from being made from their telephone numbers to a provider of information.
2. A provider of last resort of basic service that offers the service described in subsection 1 shall advise its customers of the availability of such a service at least one time each year in a manner approved by the Commission.
3. The first time that a residential customer requests the service described in subsection 1, the service must be provided at no cost. All other customers may be required to pay a fee for such a service.

NAC 704.4243 Provider of basic service prohibited from terminating services for failure to pay disputed charges; when credit must be issued to customer.

1. A provider of basic service shall not terminate the local exchange or interexchange services of a customer who disputes charges related to a telephone call made to a provider of information for failure to pay for such charges. Each provider of basic service shall advise its customers, at least one time per year in a manner approved by the Commission, that it will not discontinue service for failure to pay under such circumstances.
2. A provider of basic service or interexchange company shall issue a credit to a customer who disputes charges for telephone calls made to a telephone number with a prefix of 900:
 - (a) One time if the provider of basic service offers to prevent telephone calls to a telephone number with a prefix of 900 from being made from the customer's telephone number. After the first credit, if the person refuses to prevent such calls from being made from his telephone number, the provider of basic service is not required to issue any additional credits until after the Commission completes an investigation.
 - (b) For up to three calls per month if the provider of basic service does not have the technological capability to prevent telephone calls from being made to a telephone number with a prefix of 900.

NAC 704.42433 Interexchange company to provide upon request certain information regarding provider of information. An interexchange company that facilitates telephone calls to a provider of information shall provide upon request the name, address and telephone number of the provider of information to any customer and to the Division of Consumer Complaint Resolution of the Commission.

NAC 704.42435 Investigation of disputed charges; late charges prohibited during period of investigation.

1. The Regulatory Operations Staff of the Commission will investigate any disputed charges relating to telephone calls made to a provider of information.

2. A provider of basic service or an interexchange company shall not assess late charges during the period in which an investigation is being conducted pursuant to subsection 1.

NAC 704.42437 Prohibited charges; transmission of calls initiated by audible tones prohibited.

1. A charge may not be assessed for a telephone call made to a provider of information unless the caller dialed the number directly. A charge may not be assessed for a telephone call made to a provider of information if the caller is transferred to the provider of information after placing a telephone call to a number which begins with a prefix other than 900.

2. A provider of information shall not assess charges for a call which is placed by the provider of information to the customer unless the person who is called takes some action which clearly indicates that he accepts the charges for the call.

3. A provider of basic service or interexchange company shall not transmit to a provider of information calls which are initiated by audible tones used in broadcast advertising.

NAC 704.42439 Additional costs from regulating calls may be passed on only to provider of information or company which services provider of information. A provider of basic service or interexchange company which incurs additional costs because of the regulation of calls placed to providers of information shall not pass on such costs to customers who do not use the services of providers of information. Such additional costs may be passed on only to the providers of information or the company which services that provider of information.

[CONFINEMENT SERVICES]

NAC 704.74952 “Access service” defined. “Access service” means the provision of one or more intrastate lines for access, as defined in NAC 704.7513.

NAC 704.74954 “Confinement facility” defined. “Confinement facility” means any place designated by law for the confinement of persons held in custody under process of law or under lawful arrest, including a facility for the detention of juveniles.

NAC 704.74956 “Confinement provider” defined. “Confinement provider” means a local exchange company or other person who provides confinement service.

NAC 704.74958 “Confinement service” defined. “Confinement service” means telephone service that allows persons held in a confinement facility to make outgoing calls only, whether local or long distance, or both.

NAC 704.7496 “Local area of transport and access” defined. “Local area of transport and access” means an area within which Nevada Bell may operate pursuant to the order in *United States v. American Telephone and Telegraph Company* (552 F. Supp. 131, D.C. 1982). The term is equivalent to “local access and transport area” as used in that order.

NAC 704.74962 “Recipient” defined. “Recipient” means the person to whom a telephone call is placed or billed.

NAC 704.74964 Prerequisites to provision of confinement service. No person may provide confinement service unless he:

1. Holds or obtains a certificate of public convenience and necessity issued by the Commission authorizing the person to provide:
 - (a) Local telephone service;
 - (b) Telephone service within a single local area of transport and access;
 - (c) Intrastate telephone service between different local areas of transport and access;
 - (d) Intrastate telephone service between different cities; or
 - (e) Alternative operator services; and
2. Complies with the provisions of NAC 704.74966 to 704.74984, inclusive.

NAC 704.74966 Filing and approval of tariff or contract for confinement service; filing of protest.

1. Before providing confinement service, a confinement provider must:
 - (a) If the service is to be generally available within the State or a local area of transport and access, or provided to two or more confinement facilities, file with the Commission and obtain the Commission’s approval of a tariff for confinement service, in accordance with NAC 703.375 to 703.410, inclusive, which specifies the rates, terms, and conditions applicable to the confinement service to be provided; or
 - (b) If the service is to be provided to no more than one confinement facility, file with the Commission and obtain the Commission’s approval of a contract which specifies the rates, terms, and conditions applicable to the confinement service to be provided. The procedures generally applicable to applications filed pursuant to chapter 703 of NAC apply to a contract filed pursuant to this paragraph. Such a contract shall be deemed to be approved by the Commission and becomes effective 30 days after it is filed unless the Commission within that period:
 - (1) Disapproves the contract; or
 - (2) Approves the contract and:
 - (I) Orders an earlier effective date; or
 - (II) Orders the suspension of its effective date. Such an order may suspend the effective date of the contract to a date no later than 180 days after the date the contract was filed.
2. A confinement provider must include with a tariff or contract filed pursuant to this section:

(a) Facts sufficient to establish, and to support a finding by the Commission, that the rates to be charged are:

(1) In the public interest; and

(2) Just and reasonable to recipients and any other persons using the confinement service. For the purposes of this subparagraph, “just and reasonable” rates means rates that are:

(I) Comparable to rates which are authorized and in effect for similar kinds of intrastate, operator-assisted services generally available to the public; or

(II) Otherwise justified to the satisfaction of the Commission.

(b) A specific description of the means by which reasonable and adequate notice of the proposed tariff or contract will be provided to any confinement facility to which the tariff or contract will apply and to the residents of such a facility.

3. Any protests against a tariff or contract filed pursuant to this section must be filed with the Commission within 20 days after notice of the tariff or contract is published pursuant to NAC 703.160.

NAC 704.74968 Confinement provider: Completion and blocking of calls. A confinement provider may:

1. Complete a telephone call which is:

(a) Placed in a different local area of transport and access than that where it is received; or

(b) Both placed and received within a single local area of transport and access, whether the call is local or long distance. Except as otherwise authorized by regulation of the Commission, such a call must be transported over the facilities of the local exchange company.

2. Block telephone calls to:

(a) Directory assistance;

(b) Any operator or operator service;

(c) Toll-free numbers, such as numbers with area code 800;

(d) Pay-per-call numbers, such as numbers with area code 900 or 976;

(e) Emergency numbers, such as 911 or numbers for police or fire protection;

(f) Numbers that would allow the caller to place calls for which the calling telephone number is billed;

(g) Any numbers the confinement facility determines could jeopardize the integrity and security of the confinement facility or the safety of the public; and

(h) Any numbers the confinement provider determines could result in fraud.

NAC 704.7497 Confinement provider: Duties regarding announcement of name and collect calls.

1. A confinement provider shall clearly announce its name to each recipient of a telephone call placed through the confinement service before the recipient accepts the call or incurs any charges for the call.

2. A confinement provider shall not connect a collect call to a recipient unless the recipient indicates his willingness to accept the charges for the call:

(a) Through a verbal response which has not been prerecorded; or

(b) By entering a dial pulse or tone.

3. A confinement provider shall, within 15 seconds after the final prompt for acceptance, terminate a collect call at no charge to the recipient if the recipient fails to indicate his willingness to accept the charges for the call in the manner set forth in subsection 2.

NAC 704.74972 Confinement provider: Restrictions and duties regarding rates, charges and bills.

1. A confinement provider shall not:
 - (a) Charge any rates except rates which have been approved by the Commission.
 - (b) Charge for an unanswered telephone call.
2. A confinement provider shall:
 - (a) Make information regarding its rates readily available, at no charge, to each recipient of a telephone call placed through the confinement service.
 - (b) Provide or arrange to have provided, on each bill to a recipient of a call placed through the confinement service, a toll-free telephone number for the recipient to resolve, or to obtain information on how to resolve, any question or disagreement regarding the charges for confinement service.
 - (c) Bill a recipient of an intrastate telephone call placed through the confinement service within 90 days after the call is placed.

NAC 704.74974 Resolution of dispute regarding bill, charge or service.

1. If a recipient of a telephone call placed through a confinement service disputes any bill, charge or service of the confinement provider, the confinement provider shall promptly investigate the matter and report its determination to the recipient. If the recipient so requests, the report must be made in writing. Whether or not a written report is requested by the recipient, upon an adverse determination by the confinement provider, the confinement provider shall inform the recipient of his right to file a complaint with the Division pursuant to NAC 703.621.
2. If a complaint is filed, unless the confinement provider agrees to waive the requirement at the request of the Division, the confinement provider may require the recipient to pay any disputed amount to the confinement provider pending resolution of the complaint. If such a payment is made, the confinement provider shall refund any money found by the Commission to have been charged improperly.
3. As used in this section, "Division" means the Division of Consumer Complaint Resolution of the Commission.

NAC 704.74976 Provision of access service: Authority and duty of confinement provider; resolution of dispute between confinement facility and confinement provider.

1. A confinement provider may order such access service as is appropriate for the confinement service it provides. If the confinement facility agrees that a single access line may be shared between two or more telephones, the confinement provider shall provide such equipment as is necessary to ensure that the security and privacy of each telephone call is not compromised.
2. No confinement facility may file a complaint pursuant to NAC 703.621 for the resolution of a dispute with a confinement provider regarding the access service ordered by the confinement provider for the provision of confinement service, unless negotiations between the confinement facility and confinement provider, conducted in good faith, have failed to resolve the dispute. In resolving such a dispute, the Commission is not bound by any previous or existing agreements between the confinement facility and confinement provider.
3. Except as otherwise provided in this section, this section does not place any limitations upon the filing of any complaints regarding the provision of confinement service.

NAC 704.74978 Provision of access service: Authority and duties of local exchange company.

1. Upon receiving its first bona fide request from a confinement provider for access service, a local exchange company shall, if it does not already have a tariff on file with the Commission for the provision of that service, file such a tariff with the Commission within 30 days after the receipt of that request.

2. A local exchange company may:

(a) Before it provides a confinement provider with access service, require the confinement provider to pay a deposit in an amount which is consistent with tariffs of the local exchange company that have been approved by the Commission.

(b) For a period of no more than 60 days, unless otherwise authorized by the Commission, provide temporary service to a confinement provider under its existing tariffs for service to pay telephones which are owned and operated by customers.

3. A local exchange company shall not charge any rates for access service to a confinement provider except rates which are approved by the Commission.

NAC 704.7498 Termination of access service: Notice by local exchange company.

1. If access service to a confinement provider is scheduled to be terminated by a local exchange company, the local exchange company shall serve written notice of the termination to the confinement provider by personal delivery or by first-class mail addressed to the last known mailing address of the confinement provider. Service of the notice shall be deemed complete as of the date of mailing or personal delivery.

2. The notice must clearly set forth:

(a) The account number of the confinement provider;

(b) The date on or after which the termination will occur;

(c) The reason for the termination;

(d) The total amount of money owed to the local exchange company by the confinement provider; and

(e) The telephone number at which the confinement provider may obtain information from the local exchange company concerning the bill or service.

NAC 704.74982 Termination of access service: Duties of confinement provider; authority of confinement facility; restriction on local exchange company.

1. If a confinement provider receives a notice of termination of service pursuant to NAC 704.7498, the confinement provider shall:

(a) Provide each affected confinement facility with reasonable notice of the proposed termination, including the scheduled date of termination; or

(b) File a complaint pursuant to NAC 703.621 for a review of the propriety of the proposed termination and serve a copy of the complaint on the local exchange company and each affected confinement facility.

2. If a confinement facility receives a notice of termination pursuant to paragraph (a) of subsection 1, the confinement facility may:

(a) For the purpose of continuing telephone service, become a guarantor of all charges incurred by the confinement provider;

(b) File a complaint pursuant to NAC 703.621 for a review of the propriety of the proposed termination;

(c) Request confinement service from another confinement provider who is authorized to provide that service; or

(d) Request telephone service from the local exchange company, under the local exchange company's existing tariffs for operated-assisted calls, until the confinement facility can obtain another confinement provider.

3. If a confinement provider or confinement facility files a complaint with the Commission for a review of the propriety of a proposed termination of access service to a confinement provider, the local exchange company shall not terminate that service until the Commission authorizes it to do so.

NAC 704.74984 Procedure for discontinuance of confinement service to confinement facility.

1. If a confinement provider proposes to discontinue all service to a confinement facility, it shall, unless the discontinuance is requested by the confinement facility, notify the Commission and the confinement facility of the proposed discontinuance at least 60 days before the discontinuance takes effect. The notice must include:

(a) The proposed schedule for discontinuance; and

(b) Evidence that there are sufficient alternative resources to meet current demands for the confinement service to be discontinued.

2. The Secretary shall publish notice of the proposed discontinuance in the manner set forth in NAC 703.160. Protests against the proposed discontinuance must be filed no later than the date for filing such a protest set forth in the notice published by the Secretary. The Commission will act upon the proposed discontinuance within 60 days after it receives the notice required by subsection 1. A request for a hearing or protest must be sufficient to support a finding of the Commission that:

(a) There are insufficient alternative resources to meet current demands for the confinement service to be discontinued; and

(b) Authorizing the discontinuance of confinement service would cause substantial harm to the public interest.

If such a finding is made by the Commission and the proposed discontinuance is suspended, the Commission will immediately schedule a hearing on the matter.

3. As used in this section, "Secretary" has the meaning ascribed to it in NAC 703.100.