

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

**LCB File No. R191-07**

Effective April 17, 2008

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

AUTHORITY: §§1-14, NRS 703.025, 704.210 and 704.6878; §§15-16, NRS 703.025 and 704.210.

A REGULATION relating to telecommunications; providing definitions for “owner or developer” and “voice service”; providing for a request and notice for per se relief from the obligations of a provider of last resort; providing for a request and petition for a waiver from the obligations of a provider of last resort; providing for a waiver proceeding in regard to the obligations of a provider of last resort; providing that an excuse from the obligations of a provider of last resort does not create an excuse from any applicable federal telecommunication obligations; providing for notification by an owner or developer in relation to an order from a waiver proceeding; providing for the discontinuation of service by a person who replaced a provider of last resort; providing for a reinstatement proceeding for the reinstatement of a provider of last resort; providing for the payment of any costs from one party to another relating to facilities or equipment, as determined in a reinstatement proceeding; providing for requests for additional time relating to the reinstatement of a provider of last resort; revising the list of providers of last resort and the requirements for those providers; repealing provisions relating to exclusive rights for a provider of telecommunication service; and providing other matters properly relating thereto.

**Section 1.** Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this regulation.

**Sec. 2.** *As used in sections 2 to 14, inclusive, of this regulation, unless the context otherwise requires:*

*1. “Owner or developer”:*

*(a) Means any:*

*(1) Developer, operator or owner of any multitenant business or residential property, including, without limitation, an apartment complex, condominium complex, office complex, office park or residential subdivision;*

*(2) Condominium association; or*

*(3) Homeowners' association; and*

*(b) Does not include the developer or owner of a single-family residence if that developer or owner makes decisions on utility installations for that single-family residence only.*

*2. "Voice service" means voice-grade access, or the functional equivalent thereof, to the public switched telephone network through the use of any technology.*

**Sec. 3. 1.** *An incumbent local exchange carrier that is a provider of last resort may request per se relief to be excused from all obligations as a provider of last resort in regard to a certain property if:*

*(a) The owner or developer of the property:*

*(1) During the construction phase of the property:*

*(I) Permits any person other than the incumbent local exchange carrier to install facilities or equipment to provide voice service; and*

*(II) Legally or physically prohibits the incumbent local exchange carrier from installing his own facilities or equipment for voice service; or*

*(2) Collects mandatory rent, fees or dues from the occupants or tenants of the property for the provision of voice service by a person other than the incumbent local exchange carrier; and*

*(b) A person other than the incumbent local exchange carrier will provide voice service to the property.*

2. *As used in this section, “legally or physically prohibits the incumbent local exchange carrier from installing his own facilities or equipment for voice service” means:*

(a) *Preventing or failing to deliver access to the property, including, without limitation, providing suitable rights-of-way or easements, for the incumbent local exchange carrier to install his facilities or equipment; or*

(b) *Before any trenching done for voice service, not requesting from the incumbent local exchange carrier plans, specifications, engineering drawings, designs or information relating to costs and advances to be paid by the owner or developer for related facilities or equipment.*

**Sec. 4. 1.** *An incumbent local exchange carrier that is a provider of last resort and wishes to request per se relief pursuant to section 3 of this regulation must file a notice for per se relief with the Commission and must concurrently serve the notice to:*

(a) *The Regulatory Operations Staff of the Commission;*

(b) *The owner or developer of the property;*

(c) *The Bureau of Consumer Protection in the Office of the Attorney General; and*

(d) *If known, the person other than the incumbent local exchange carrier who will provide voice service to the property.*

2. *The notice must contain the following information:*

(a) *The name, address and telephone number of the incumbent local exchange carrier that is the provider of last resort;*

(b) *The name, address and telephone number of the owner or developer;*

(c) *A description of the property;*

(d) *A statement explaining why the incumbent local exchange carrier qualifies for per se relief and any supporting documents; and*

*(e) If known, the name, address and telephone number of the person who will provide voice service to the property or, if unknown, an explanation of why this information is unavailable.*

*3. After a notice for per se relief is filed with the Commission, a protest to the notice for per se relief may be filed with the Commission within 14 days by any affected party, including, without limitation, the Regulatory Operations Staff of the Commission, the Bureau of Consumer Protection in the Office of the Attorney General and the person cited by the incumbent local exchange carrier as the person who will provide voice service to the property.*

*4. The Regulatory Operations Staff of the Commission will file a protest to a notice for per se relief if the Staff cannot confirm the material facts in the notice for per se relief or if the Staff cannot confirm that a new person will provide voice service to the property.*

*5. If no protests are filed with the Commission in regard to a notice for per se relief within 14 days after the notice for per se relief is filed, or if the Commission does not schedule a waiver proceeding pursuant to subsection 6, per se relief is deemed granted.*

*6. If a protest is filed with the Commission in regard to a notice for per se relief within 14 days after the notice for per se relief is filed, the Commission may schedule a waiver proceeding as described in section 7 of this regulation. If the Commission does not schedule a waiver proceeding within 30 days after the filing of a protest, per se relief is deemed granted.*

*Sec. 5. An incumbent local exchange carrier that is a provider of last resort may request a waiver of its obligations as a provider of last resort in regard to a certain property.*

*Sec. 6. 1. An incumbent local exchange carrier that wishes to request a waiver of its obligations pursuant to section 5 of this regulation must file a petition for waiver with the Commission and must concurrently serve the notice to:*

- (a) The Regulatory Operations Staff of the Commission;*
- (b) The owner or developer of the property;*
- (c) The Bureau of Consumer Protection in the Office of the Attorney General; and*
- (d) If known, the person other than the incumbent local exchange carrier who will provide voice service to the property.*

*2. The petition must include, without limitation, the following information:*

- (a) The name, address and telephone number of the incumbent local exchange carrier that is the provider of last resort;*
- (b) The name, address and telephone number of the owner or developer;*
- (c) A description of the property;*
- (d) A statement explaining why the incumbent local exchange carrier qualifies for a waiver and any supporting documents; and*
- (e) If known, the name, address and telephone number of the person who will provide voice service to the property or, if unknown, an explanation of why this information is unavailable.*

*Sec. 7. 1. After a petition for waiver is filed with the Commission pursuant to section 6 of this regulation or the Commission decides to conduct a waiver proceeding pursuant to subsection 6 of section 4 of this regulation, the Commission will schedule a waiver proceeding and will issue an order regarding the petition within 90 days after the filing of the petition for waiver or the filing of the protest.*

*2. If the order grants the petition for waiver or grants per se relief, the order must require that the person who will provide voice service to the property shall:*

- (a) Adhere to the requirements of section 10 of this regulation; and*

*(b) Maintain with the Commission a current address, telephone number and any other requested contact information.*

**Sec. 8.** *Excuse from the obligations of a provider of last resort does not relieve a provider of last resort from the obligations of an eligible telecommunications carrier as required by federal law or regulation.*

**Sec. 9. 1.** *An owner or developer must notify in writing all occupants and tenants of the property, and any subsequent owner or developer of the property, of certain facilities, equipment and payment information if:*

*(a) An order denying a petition for waiver or denying per se relief is made pursuant to section 7 of this regulation;*

*(b) The incumbent local exchange carrier that is the provider of last resort does not have certain facilities or equipment installed on the property because the owner or developer has not complied with the applicable laws and regulations regarding underground facilities or equipment; and*

*(c) The relevant trenches on the property are already closed.*

**2.** *As used in this section, “certain facilities, equipment and payment information” means information which states that:*

*(a) The incumbent local exchange carrier who is the provider of last resort does not have facilities or equipment installed on the property;*

*(b) In the event that an occupant or a tenant, the owner or developer, or a subsequent owner or developer requests voice service from the incumbent local exchange carrier, the occupant or tenant, owner or developer, or subsequent owner or developer may be required to*

*pay special construction charges for the installation of facilities or equipment before the incumbent local exchange carrier can provide such service; and*

*(c) After payment of special construction charges pursuant to this section, the incumbent local exchange carrier may require 180 days, or more if permitted by the Commission, to install the facilities or equipment.*

**Sec. 10. 1.** *If a person provides voice service to a property after an incumbent local exchange carrier is relieved of his obligations as a provider of last resort, the person may not discontinue service without, at least 180 days before the date of discontinuation:*

*(a) Filing a notice of discontinuation with the Commission; and*

*(b) Providing copies of the notice to the occupants and tenants of the property, the incumbent local exchange carrier and the owner or developer of the property.*

*2. A notice of discontinuation must contain the following information:*

*(a) The character and nature of the discontinuation of service;*

*(b) The date of the discontinuation of service;*

*(c) The contact information for the person filing the notice, including, without limitation:*

*(1) The name, address and business telephone number of the person; and*

*(2) At least one toll-free customer service telephone number which is active at the time the notice is sent and is maintained by the person to facilitate the continuation of service and the transition of the occupants and tenants to new service;*

*(d) The name, address and telephone number of the owner or developer;*

*(e) A description of the property; and*

*(f) Whether or not the person or the owner or developer:*

*(1) Has made arrangements for the incumbent local exchange carrier to resume the obligations of a provider of last resort to the property; or*

*(2) Has made arrangements for a person other than the incumbent local exchange carrier to provide replacement service to the property.*

**Sec. 11.** *Upon receipt of a notice of discontinuation or evidence of possible discontinuation of voice service to a property, the Commission:*

*1. May hold a reinstatement proceeding if no arrangements have been made for replacement service to the property; and*

*2. May issue an interim order that ensures continuous service to the property.*

**Sec. 12.** *1. During a reinstatement proceeding, the Commission will examine the manner in which the incumbent local exchange carrier that is the provider of last resort shall provide basic network service or business line service to the property.*

*2. During a reinstatement proceeding, the Commission will determine, without limitation:*

*(a) The amount of money necessary to compensate for the cost that the incumbent local exchange carrier will incur to place facilities and equipment at the property, while taking into consideration, without limitation, the amount necessary to install or retrofit any facilities or equipment, to cut or trench sidewalks and streets, and to restore roads, sidewalks, block walls or landscapes to original conditions;*

*(b) Whether any existing facilities or equipment may be given or made available to the incumbent local exchange carrier, to the extent compatible with its facilities or equipment, and whether the incumbent local exchange carrier must accordingly compensate the person discontinuing service for such facilities or equipment; and*

*(c) A reasonable period of time for the construction, retrofitting or installation of necessary facilities and equipment by the incumbent local exchange carrier based upon evidence provided by the incumbent local exchange carrier.*

*3. During a reinstatement proceeding, the Commission will, when making determinations:*

*(a) Take into consideration any relevant use of alternative technology by the person who is discontinuing service; and*

*(b) Allow the incumbent local exchange carrier to use alternative technology to satisfy any relevant obligations as a provider of last resort.*

*4. The Commission will not:*

*(a) Commence the reasonable period of time that an incumbent local exchange carrier has for the construction, retrofitting or installation of necessary facilities and equipment until:*

*(1) The incumbent local exchange carrier has been conveyed any compensation due pursuant to section 13 of this regulation; and*

*(2) The owner or developer of the property provides to the incumbent local exchange carrier the access necessary to install facilities and equipment, including, without limitation, providing any necessary easements; and*

*(b) Reinstate an incumbent local exchange carrier if the owner or developer of the property does not provide to the incumbent local exchange carrier the access necessary to both install and maintain facilities and equipment, including, without limitation, providing any necessary easements.*

**Sec. 13.** *If the Commission determines during a reinstatement proceeding that a person who is discontinuing voice service or an incumbent local exchange carrier should compensate*

*the other for certain costs pursuant to section 12 of this regulation, the compensation may be conveyed, at the discretion of the payor, by:*

*1. Carrying out a payment schedule approved by the Commission, along with the posting of a bond in a manner approved by the Commission; or*

*2. Paying the full amount of compensation within 30 days.*

**Sec. 14.** *After a reinstatement proceeding, an incumbent local exchange carrier may request more time for the construction, retrofitting or installation of necessary facilities and equipment by submitting a written request to the Commission.*

**Sec. 15.** NAC 704.6802 is hereby amended to read as follows:

704.6802 1. The following companies or their successors are designated as providers of last resort and shall provide basic *network* service *and business line service* to all current and future subscribers within their respective service territories, ~~[as defined in tariffs on file with the Commission on December 1, 1995:]~~ *as filed with and approved by the Commission:*

- (a) ~~[ALLTEL Nevada, Inc.;~~ *Beehive Telephone Co., Inc., Nevada;*
- (b) ~~[Beehive Telephone Company, Inc.;~~ *Central Telephone Company, d.b.a. Embarq;*
- (c) ~~[Central Telephone Company;~~ *CenturyTel of the Gem State, Inc., d.b.a. CenturyTel;*
- (d) ~~[Contel of California, Inc., d.b.a. Contel of Nevada;~~ *Citizens Telecommunications Company of Nevada, d.b.a. Frontier Communications of Nevada;*
- (e) Filer Mutual Telephone Company;
- (f) ~~[Gem States Utilities Corporation;~~ *Lincoln County Telephone System, Inc.;*
- (g) ~~[Humboldt Telephone Company;~~ *Moapa Valley Telephone Company;*
- (h) ~~[Lincoln County Telephone System, Inc.;~~ *Nevada Bell Telephone Company, d.b.a. AT&T Nevada and AT&T Wholesale;*

(i) ~~[Moapa Valley Telephone Company;]~~ *Oregon-Idaho Utilities, Inc., d.b.a. Humboldt Telephone Company;*

(j) ~~[Nevada Bell;]~~ *Rio Virgin Telephone Company, d.b.a. Rio Virgin Telephone & Cablevision;*

(k) ~~[Rio Virgin Telephone Company; and]~~ *Rural Telephone Company; and*

(l) ~~[Rural Telephone Company.]~~ *Verizon California Inc., d.b.a. Verizon Nevada.*

2. ~~[Unless otherwise authorized by the Commission, Nevada Bell or its successor is designated as the provider of last resort for intrastate interexchange toll services within the northern LATA, designated as LATA 720, and shall provide those services between all points of origination and termination within the LATA, unless the service both originates and terminates within the service territory of a company, other than Nevada Bell, listed in subsection 1.~~

~~—3.— Unless otherwise authorized by the Commission, Central Telephone Company or its successor is designated as the provider of last resort for intrastate interexchange toll services within the southern LATA, designated as LATA 721, and shall provide those services between all points of origination and termination within the LATA, unless the service both originates and terminates within the service territory of a company, other than Central Telephone Company, listed in subsection 1.~~

~~—4.]~~ The companies identified in subsection 1, other than Nevada Bell *Telephone Company, d.b.a. AT&T Nevada and AT&T Wholesale*, and Central Telephone Company, *d.b.a. Embarq*, are designated as the providers of last resort for intrastate interexchange toll service within their respective service territories, as defined in tariffs on file with the Commission on ~~[December 1, 1995.]~~ *January 1, 2007*, and shall provide those services between all points of origination and termination within those territories.

**Sec. 16.** NAC 704.68098 is hereby repealed.

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**TEXT OF REPEALED SECTION**

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**704.68098 Exclusive rights to owner or developer of property or subdivision prohibited.**

1. A provider of telecommunication service may not obtain the exclusive rights from a developer or owner of property to provide facilities required to offer basic service to subscribers occupying that property or a subdivision thereof.

2. As used in this section, “subscriber” has the meaning ascribed to it in NAC 704.7521.

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R191-07**

The Public Utilities Commission of Nevada adopted regulations assigned LCB File No. R191-07 which pertain to chapter 704 of the Nevada Administrative Code.

**INFORMATIONAL STATEMENT**

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

Copies of the proposed regulations, notice of intent to act upon the regulations and notice of workshop and hearing were sent by U.S. mail to persons who were known to have an interest in the subject of telecommunications as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Public Utilities Commission of Nevada (“PUCN”), <http://pucweb1.state.nv.us/PUCN/>, mailed to all county libraries in Nevada, published in the following newspapers:

Elko Daily Free Press  
Las Vegas Review Journal  
Nevada Appeal  
Reno Gazette Journal  
Tonopah Times-Bonanza,

and posted at the following locations:

Public Utilities Commission  
1150 East William Street  
Carson City, Nevada 89701

Public Utilities Commission  
101 Convention Center Drive, Suite 250  
Las Vegas, Nevada 89109

First Judicial District Court  
885 East Musser Street  
Carson City, Nevada 89701

Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501

Eighth Judicial District Court  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, Nevada 89155

The Phase II regulations implement Section 15 of Assembly Bill 518 which has been codified as NRS 704.6878. The participants supported changing the term “Multitenant landlord” to “Owner or developer.” The participants also supported replacing the term “basic network service or business line service” with the term “voice service” because most alternative providers do not provide basic network service, most notably lifeline. Some participants proposed that the definition of voice service be expanded to include data, video,

and Voice over Internet Protocol (“VoIP”). Some participants were opposed to including the collection of mandatory rent, fees or dues from the occupants of the property for the provision of basic network service or business line service by a person other than the incumbent local exchange carrier as a basis for per se relief. Additionally, one participant opposed per se relief if the multitenant landlord of the property does not request from the incumbent local exchange carrier “plans, specifications, engineering drawings, designs or information related to the costs and advances to be paid by the multitenant landlord for related facilities and equipment” during the construction phase of the property. One participant argued that if a provider of last resort is reinstated they should be authorized to recover only those additional costs incurred because the provider of last resort did not place facilities at the property initially. One participant proposed removing the default toll provider requirement in NAC 704.6802(2) and (3) since local exchange carriers have been required to implement equal access so that their customers can select a preferred interexchange carrier to provide long distance service.

A copy of the transcript of the proceedings is available for review at the PUCN’s website at <http://pucweb1.state.nv.us/PUCN> and at the offices of the PUCN, 1150 East William Street, Carson City, Nevada 89701 and 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

**2. The number of persons who:**

**(a) Attended each hearing:** January 30, 2008 - 15

**(b) Testified at each hearing:** January 30, 2008 - 7

**(c) Submitted to the agency written comments:** 8

**3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses in the same manner as they were solicited from the public.

The summary may be obtained as instructed in the response to question #1.

**4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The permanent regulations were adopted on February 27, 2008. They were revised to change the term “Multitenant landlord” to “Owner or developer” so that the regulations would apply more broadly than a landlord-tenant relationship. The revisions also change the term “basic network service or business line service” to “voice service” to effectuate the intent of the statute that an incumbent local exchange carrier would be relieved of its provider of last resort obligations if an owner or developer enters into an exclusive contract with an alternative provider to provide voice service, and that the Commission would get notice and a bond before the alternative provider terminates service. Although the alternative provider would not be required to provide lifeline, it was clarified in the

regulations that excuse from the provider of last resort obligations does not relinquish a provider of last resort's eligible telecommunications carrier obligations under federal law which includes the obligation to provide lifeline. Lastly, the proposed regulations were revised to repeal NAC 704.6802(2) and (3).

- 5. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and must include:**  
**(a) Both adverse and beneficial effects; and**  
**(b) Both immediate and long-term effects.**

(a) Both adverse and beneficial effects:

The proposed regulations will have beneficial immediate and long-term economic effects on the businesses that they are to regulate because in the event an owner or developer enters into an exclusive arrangement with an alternative provider to provide voice service, the proposed regulations establish the terms, conditions and procedures under which an incumbent local exchange carrier may be excused from its obligations as the provider of last resort, and reinstatement of those obligations. The proposed regulations will have beneficial immediate and long-term economic effects on the public by requiring that an alternative provider of voice service provide notice and a bond to the Commission prior to discontinuing service to ensure continuity of service to consumers.

(b) Both immediate and long-term effects:

See Item # 5(a).

- 6. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the agency for enforcement of these regulations.

- 7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

These regulations do not overlap or duplicate any federal, state, or local regulations.

- 8. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

N/A

- 9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

N/A

**10. If the proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?**

The PUCN has determined that the proposed regulations do not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business. In making this determination, the PUCN adopted the findings of Staff, which conducted a Delphi Method exercise to determine the impacts. The Delphi Method is a systematic, interactive, forecasting method based on independent inputs of selected experts.

**BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA**

Investigation and rulemaking to adopt, amend, or repeal )  
regulations pertaining to Chapters 703 and 704 of the )  
Nevada Administrative Code regarding a regulatory )  
scheme intended to promote more competition in the ) Docket No. 07-06016  
local telephone market, establish the terms, conditions )  
and procedures under which an incumbent local exchange )  
carrier may be excused from its obligations as the provider )  
of last resort, and reinstatement of those obligations, and )  
other related utility matters in accordance with Assembly )  
Bill 518. )  
\_\_\_\_\_ )

At a general session of the Public Utilities  
Commission of Nevada, held at its offices on  
February 27, 2008.

PRESENT: Chairman Jo Ann P. Kelly  
Commissioner Rebecca D. Wagner  
Commission Sam A. Thompson  
Commission Secretary Crystal Jackson

**ORDER ADOPTING PHASE II REGULATIONS**

The Public Utilities Commission of Nevada (“Commission”) makes the following findings of fact and conclusions of law:

1. On June 6, 2007, the Commission voted to open an investigation and rulemaking docket to consider changes to the Commission's regulations as a result of Assembly Bill (“A.B.”) 518 passed during the 74<sup>th</sup> Regular Session of the Nevada Legislature. This matter has been designated by the Commission as Docket No. 07-06016.
2. This matter is being conducted by the Commission pursuant to the Nevada Revised Statutes (“NRS”) and the Nevada Administrative Code (“NAC”), Chapters 233B, 703, and 704, including but not limited to NRS 703.025 and 704.210. Phase II of this docket is being conducted pursuant to A.B. 518 Sec. 91(3).

3. The Commission issued a public notice of this matter in accordance with state law and the Commission's Rules of Practice and Procedure.

4. A duly noticed prehearing conference was held on July 18, 2007.

5. On July 25, 2007, the Hearing Officer issued a Procedural Order separating this docket into phases and adopting a procedural schedule.

6. On August 21, 2007, the Commission issued a Phase II: Notice of Workshop, Request for Comments and Proposed Regulations. In Phase II of this docket the Hearing Officer requested comments on Section 15 of A.B. 518. Specifically, Section 15 requires the Commission to adopt regulations establishing the terms, conditions and procedures under which an incumbent local exchange carrier may be excused from its obligations as the provider of last resort, and reinstatement of those obligations.

7. On September 13, 2007, the Commission received proposed regulations from the following: Nevada Bell Telephone Company, d/b/a AT&T Nevada and AT&T Wholesale ("AT&T Nevada"); Central Telephone Company d/b/a Embarq ("Embarq"); Focus Property Group and General Growth Properties – Howard Hughes Corporation ("Focus/GGP"); and the Attorney General's Bureau of Consumer Protection ("BCP").

8. On September 27, 2007, the Commission received comments on the proposed regulations from the following: Focus/GGP; Verizon California Inc., d/b/a Verizon Nevada ("Verizon"); AT&T Nevada; Embarq; Cox Nevada Telcom, LLC ("Cox"); the Regulatory Operations Staff of the Commission ("Staff"); and the BCP.

9. On October 4, 2007, the Commission received reply comments from the following: Focus/GGP; Verizon; AT&T Nevada; Embarq; Cox; Staff; and the BCP.

10. A duly noticed workshop was held on October 11, 2007.

11. On November 1, 2007, Staff filed consensus language from the participants for the proposed regulations.

12. On November 13, 2007, the Hearing Officer sent the proposed regulations to the Legislative Counsel Bureau (“LCB”).

13. On November 14, 2007, Procedural Order No. 3 was issued. Staff was directed to conduct an investigation pursuant to NRS 233B.0608 to determine whether the proposed Phase II regulations are likely to: (a) impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business.

14. On December 19, 2007, the Commission voted, pursuant to NRS 233B.0608, to reject Staff’s recommendation, and the Commission issued an Order directing Staff to further evaluate whether the proposed Phase II regulations impose a direct and significant economic burden on small businesses or directly restrict the formation, operation or expansion of a small business. Staff was directed to present a new report to the Commission with the results of its investigation along with a statement identifying the methodology used in determining the impact on small business at the Commission’s January 9, 2008 agenda meeting.

15. On December 21, 2007, the LCB returned the proposed Phase II regulations to the Commission in revised form.

16. On December 24, 2007, the Commission issued a Notice of Intent to Act Upon a Regulation, Notice of Workshop and Notice of Hearing for the Adoption, Amendment and Repeal of Regulations of the Public Utilities Commission of Nevada.

17. On January 9, 2008, the Commission voted, pursuant to NRS 233B.0608, to accept Staff’s recommendation and find that the proposed Phase II regulations do not: (a) impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business.

18. On January 14, 2008, the Commission received comments on the LCB revised regulation from the following: Focus/GGP; Verizon; AT&T Nevada; Embarq; Cox; the Nevada Telecommunications Association (“NTA”); Lincoln County Telephone System, Inc. (“Lincoln County”); and Staff.

19. A duly noticed workshop and hearing were held on January 22, 2008 and January 30, 2008, respectively.

20. Appearances were made at the foregoing workshops and hearing by interested persons, including: Focus/GGP; Verizon; AT&T Nevada; Embarq; Cox; the NTA; Lincoln County; Staff; and the BCP.

21. Based on the oral and written comments of the participants as well as further internal review, the Hearing Officer revised the LCB version of the proposed Phase II regulations attached hereto and incorporated herein as Attachment 1. Generally, the proposed regulations repeal NAC 704.68098 which prohibits a provider of telecommunication service from obtaining the exclusive rights from an owner or developer of property to provide facilities required to offer basic service to subscribers occupying that property. In the event an owner or developer enters into an exclusive arrangement with another provider of telecommunication service to provide voice service to the property, the proposed regulations establish the terms, conditions and procedures under which an incumbent local exchange carrier may be excused from its obligations as the provider of last resort, and reinstatement of those obligations.

22. Specifically, the substantive revisions to the LCB version of the proposed regulations change the term “Multitenant landlord” back to “Owner or developer” as it appeared in the proposed regulations sent to LCB. A new definition of “Voice service” was added to the regulations, and this term was substituted for the term “basic network service or business line

service” throughout the regulations. A new section was added to the regulations stating that “[e]xcuse from the provider of last resort obligations does not relinquish a provider of last resort’s eligible telecommunications carrier obligations, as governed by federal law.” Lastly, NAC 704.6802(2) and (3) were repealed which designated AT&T Nevada and Embarq as the “default” long-distance providers in cases where customers of other local exchange carriers have not selected a long-distance carrier on their own.

23. The Commission finds that it is in the public interest to adopt as permanent the Phase II proposed regulations attached hereto and incorporated herein as Attachment 1.

THEREFORE, based on the foregoing findings of fact and conclusions of law, it is ORDERED that:

1. The Phase II proposed regulations, attached hereto and incorporated herein as Attachment 1, are ADOPTED as permanent regulations pursuant to NRS 233B.063.

2. The Commission retains jurisdiction for the purpose of correcting any errors that may have occurred in the drafting or issuance of the Order.

By the Commission,

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JO ANN P. KELLY, Chairman

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REBECCA D. WAGNER, Commissioner

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SAM A. THOMPSON, Commissioner

Attest: \_\_\_\_\_  
CRYSTAL JACKSON, Commission Secretary

Dated: Carson City, Nevada

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(SEAL)