

Chapters 702, 703 and 704 of NAC

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

LCB File No. T008-14

Docket No. 12-02013

November 17, 2014

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

AUTHORITY: NRS 233B.040, 703.025, 704.210, 704.215, 704.220, 704.250, 704.260 and 704.280.

A REGULATION relating to updating the existing Internet address of the Public Utilities Commission of Nevada; revising provisions governing certain administrative proceedings and practice before the Public Utilities Commission of Nevada, including publication of public notices; updating annual report filing provisions for providers of last resort of basic telecommunication services; and amending certain provisions adopting publications by reference.

Section 1. NAC 702.430 is hereby amended to read as follows:

1. A copy of any form that is required to be used pursuant to NAC 702.150 to 702.450, inclusive, may be:

(a) Obtained at the Internet website of the Commission ~~at <http://www.puc.state.nv.us>~~;

(b) Obtained at an office of the Commission; or

(c) Obtained from the Commission by a written request sent to the principal office of the Commission in Carson City, Nevada, by United States mail or other messenger or delivery service.

2. The available forms include:

(a) UEC report;

(b) Retail customer report;

- (c) Prepayment report;
- (d) Request for refund; and
- (e) Request for exemption.

Sec. 2. Chapter 703 of NAC is hereby amended by adding thereto the provision set forth below:

“Contested case” has the meaning ascribed to it in NRS 233B.032.

Sec. 3. NAC 703.019 is hereby amended to read as follows:

“Commenter” means a person who participates in a ~~proceeding~~ *contested case* as a commenter pursuant to NAC 703.491.

Sec. 4. NAC 703.491 is hereby amended to read as follows:

Commenters: Conditions and scope of participation in ~~proceedings~~ *contested cases*.

1. A person who is not a party to a ~~proceeding~~ *contested case* may participate in the ~~proceeding~~ *contested case* as a commenter if:

~~(a) The person has a direct and substantial interest in the proceeding but the person does not desire to participate in the proceeding as an intervener; or~~

~~(b) The person does not have a direct and substantial interest in the proceeding to participate in it as an intervener but~~ the person desires to file written comments concerning issues in the ~~proceeding~~ *contested case*.

2. To participate in the ~~proceeding~~ *contested case* as a commenter, the person must file ~~with the Commission a notice of intent to participate as a commenter~~ *written comments prior to the scheduled hearing on the contested case and identify the person as a “commenter” in all written comments filed*. If the person files such ~~notice~~ *written comments prior to the scheduled hearing*, the Commission will place the ~~person~~ *commenter* on the *docket-specific*

service list maintained by the Commission, and the ~~{person}~~ *commenter* will receive ~~{from the Commission copies}~~ *notifications* of Commission-issued ~~{pleadings in the proceeding}~~ *notices and orders thereafter*.

3. ~~{Each person who participates in the proceeding as a commenter:~~

~~(a) Must be styled a “commenter” in all pleadings;~~

~~(b) Is not a party of record; and~~

~~(c) Is limited to filing written comments in the proceeding pursuant to subsection 4.~~

4. ~~Before the beginning of the hearing in the proceeding, each commenter may file with the Commission written comments concerning issues in the proceeding. The~~ *A commenter’s* written comments will be made part of the record of the ~~{proceeding}~~ *contested case*, but the written comments will not be treated as evidence.

5. A commenter is not a party of record to the ~~{proceeding}~~ *contested case*, and a commenter shall not take any action that only a party of record may take, including, without limitation, presenting or cross-examining witnesses, conducting discovery, filing a petition for reconsideration or rehearing or seeking judicial review of a decision of the Commission.

6. If, during the pendency of the ~~{proceeding}~~ *contested case*, a commenter claims to have a direct and substantial interest in the proceeding and desires to participate in the proceeding as an intervener, the commenter may file a petition for leave to intervene with the Commission pursuant to NAC 703.578 to 703.600, inclusive. If the petition for leave to intervene is filed with the Commission after the applicable period set forth in NAC 703.590, the petition must state a substantial reason for the delay as required by that section.

Sec. 5. NAC 703.500 is hereby amended to read as follows:

Except as otherwise provided by specific regulation~~[, in any proceeding before the Commission]~~:

1. *In any proceeding before the Commission, [E]each party of record is entitled to enter an appearance, introduce relevant evidence, examine and cross-examine witnesses, make arguments, make and argue motions and generally participate in the proceeding.*

2. *In any contested case, [E]each commenter is entitled to file written comments with the Commission pursuant to NAC 703.491.*

Sec. 6. 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~~[10]~~ 9 to be published in the manner prescribed in this section. *For a notice that requires publication in a newspaper pursuant to subsection 5, the [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, *upon determining that a filing or proceeding is required to be published in a newspaper pursuant to subsection 5,* 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 four or more newspapers 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. The Secretary will post each business day on~~the Internet website of~~ the Commission's *website* a current list of all public notices published pursuant to this section.

4. ~~The~~ *A newspaper* public notice must be an advertisement which is not less than 1 column inch by 3 inches, with a border on all sides.~~, and~~ *Any public notice* 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 *written* 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.

5. If the notice is:

(a) A public notice for a hearing, *a workshop or a prehearing conference*, the Secretary shall cause the notice ~~of hearing~~ to be:

(1) ~~Served on~~ *Distributed to* each party and published *on the Commission's website* at least 10 days before the ~~hearing~~ *proceeding* is held, *15 days if the proceeding is an NRS 233B.061 rulemaking workshop*; ~~and~~

(2) Posted at the principal office of the Commission at least 3 days before the ~~hearing~~ *proceeding* is held; *and*

(3) *Published in the appropriate newspapers at least 10 days before the proceeding if the matter is a hearing on a proposed regulation.*

(b) For a filing or a ~~proceeding other than a hearing~~ *consumer session*, the Secretary shall cause the 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~~ *consumer session* is held.

6. The applicant, complainant or petitioner shall timely pay the cost of the *newspaper* publication. If the applicant, complainant or petitioner fails to timely pay the cost of the publication, the Commission may, after notice and an opportunity to be heard and upon due consideration of all relevant circumstances, dismiss the applicable filing without prejudice, seek an administrative fine pursuant to NRS 703.380, or both dismiss the applicable filing without prejudice and seek an administrative fine.

7. On a weekly basis, the Commission will ~~cause to be published~~ *post on its website* a summary of public notices concerning the filings and proceedings described in subsection ~~10~~

~~9. 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.~~

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

~~9. 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.~~

~~10.~~ Except as otherwise provided pursuant to subsection ~~12~~ *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.

~~11.~~ **10.** The provisions of this section do not apply to a quarterly adjustment to a base tariff energy rate or a quarterly adjustment to a deferred energy accounting adjustment made pursuant to NRS 704.110.

~~12.~~ **11.** The provisions of this section do not apply to a petition submitted to the Commission pursuant to NAC 703.290.

Sec. 7. NAC 703.162 is hereby amended to read as follows:

A person who causes an application, tariff filing, complaint or petition described in paragraphs (a), (b) and (c) of subsection ~~10.~~ **9** of NAC 703.160 to be filed with the Commission must include in the application, tariff, complaint or petition:

1. A draft of the public notice that complies with the provisions of paragraphs (a), (b) and (c) of subsection 4 of NAC 703.160; and
2. A statement indicating whether a consumer session is required to be held pursuant to NRS 704.069.

Sec. 8. 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 *make the list available for viewing on the Commission's website* ~~regularly publish notices for~~ *and provide* the opportunity ~~of~~ *for* 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 natural person and entity on the list.

Sec. 9. NAC 703.570 is hereby amended to read as follows:

1. A party to a proceeding who desires to contest ~~{a petition,}~~ an order to show cause or a complaint or make any representation about it to the Commission may file an answer with the Commission.

2. An answer to an order to show cause or a complaint must:

(a) Be in writing; ~~{and}~~

(b) ~~{Specifically admit or deny}~~ *Address* each material allegation ~~{and state any new matter constituting a defense. Matters alleged by way of an affirmative defense must be separately stated and numbered.};~~ *and*

(c) Separately state and number matters alleged by way of an affirmative defense.

3. If an amendment or correction to a pleading is filed before the filing of an answer, the time within which to answer will be computed from the date of service of the amendment or correction unless the Commission or presiding officer directs otherwise.

4. Except as otherwise ordered by the Commission, the facts set forth in an amendment or correction shall be deemed admitted if an answer to the amendment or correction is not filed. If a party does wish to answer an amendment or correction, the party must file an answer within 15 days after the service of the amendment or correction unless the Commission or presiding officer directs otherwise.

5. Amendments or corrections made after the filing of an answer need not be answered.

6. Failure to file an answer or failure to indicate a jurisdictional defect in an answer does not waive the right to object to a jurisdictional defect.

Sec. 10. NAC 703.573 is hereby repealed.

Sec. 11. NAC 703.577 is hereby amended to read as follows:

1. A motion by a party to dismiss an application that is within the prohibition of paragraph (e) of subsection 1 of NRS 704.100 must be in writing and filed with the Commission no later than 15 days after the date ~~the application is filed with the Commission~~ *set by the Commission for persons to file petitions for leave to intervene.*

2. The applicant and the Commission's staff, if not the moving party, may respond to the motion within 7 days after it is filed. The response must be in writing.

3. The Commission will hold a hearing on the motion no later than 5 days after the time for response has expired and will render a decision on the motion within 30 days after the date the application is filed.

Sec. 12. NAC 704.225 is hereby amended to read as follows:

1. Except as otherwise provided in this subsection, each entity described in subsection 1 of NRS 703.191 shall submit to the Commission an annual report on or before May 15 of the year following the year for which the annual report is filed. A telecommunication provider is not required to submit an annual report pursuant to this section and shall submit an annual report pursuant to NAC 704.7483. ~~A provider of last resort of basic service which is authorized by the Commission to be regulated pursuant to a plan of alternative regulation is not required to submit an annual report pursuant to this section and shall submit an annual report pursuant to NAC 704.6849.~~

2. An entity submitting an annual report pursuant to subsection 1 shall include in the annual report:

(a) A statement of income;

- (b) A balance sheet;
- (c) A statement of intrastate revenue;
- (d) The number of customers served by the entity; and
- (e) Any additional information requested by the Commission pursuant to subsection 3.

3. The Commission may request that an entity submitting an annual report pursuant to subsection 1 include in the annual report any additional information that the Commission deems necessary for inclusion in the annual report.

Sec. 13. NAC 704.450 is hereby amended to read as follows:

1. The Commission hereby adopts by reference the *National Electrical Safety Code* ~~1997 Edition (ANSI C2-1997)~~ *in the form most recently* approved by the American National Standards Institute and approved and published by the Institute of Electrical and Electronics Engineers, Inc. *unless the Commission gives notice that the most recent publication is not suitable for this State pursuant to subsection 3.*

2. The *National Electrical Safety Code* is available, ~~at~~ for a ~~charge of \$60 per copy for members of the Institute of Electrical and Electronics Engineers, Inc., and \$75 per copy for nonmembers,~~ *fee*, upon request made to the Institute of Electrical and Electronics Engineers, Inc., Customer Service, 445 Hoes Lane, P.O. Box 1331, Piscataway, New Jersey 08855-1331.

3. The Commission will review each revision of the publication adopted by reference pursuant to subsection 1 to determine its suitability for this State. If the Commission determines that the revision is not suitable for this State, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Commission does not revise its determination, the Commission will give notice that the revision is not suitable for this State

within 30 days after the hearing. If the Commission does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.

Sec. 14. NAC 704.461 is hereby amended to read as follows:

1. The Commission hereby adopts by reference Standard No. 58~~[(1995 edition)]~~ and Standard No. 59~~[(1995 edition) of]~~ *in the form most recently published by the* National Fire Protection Association *unless the Commission gives notice that the most recent publication is not suitable for this State pursuant to subsection 3.*

2. Copies of these standards are available from the National Fire Protection Association, One Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101 *for a fee.* ~~[(The cost of a copy of Standard No. 58 is \$29.25, and the cost of a copy of Standard No. 59 is \$22.25.)]~~

3. *The Commission will review each revision of the publication adopted by reference pursuant to subsection 1 to determine its suitability for this State. If the Commission determines that the revision is not suitable for this State, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Commission does not revise its determination, the Commission will give notice that the revision is not suitable for this State within 30 days after the hearing. If the Commission does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.*

Sec. 15. NAC 704.569 is hereby amended to read as follows:

1. Except as otherwise provided in this section, a public utility that is required to maintain a fire hydrant pursuant to NRS 704.660 shall:

(a) Maintain the fire hydrant in compliance with:

(1) The *International Fire Code*; and

(2) The *Uniform Plumbing Code*.

(b) Inspect and operate the fire hydrant:

(1) Not less than once each year; and

(2) Not later than 3 days after receiving notice that the fire hydrant is not in compliance with the *International Fire Code* or the *Uniform Plumbing Code*.

(c) If the utility discovers that the fire hydrant is not in compliance with the *International Fire Code* or the *Uniform Plumbing Code*, the utility shall, not later than 24 hours after the discovery:

(1) Notify the local agency having jurisdiction over fire protection;

(2) Install and maintain on the fire hydrant an out-of-service ring or bag that is approved by the local agency having jurisdiction over fire protection; and

(3) Repair the fire hydrant as soon as practicable, but in any case, not later than 30 days after discovery of the noncompliance unless the local agency having jurisdiction over fire protection agrees to a later date for the completion of the repairs and the utility notifies the Commission of the agreement.

(d) Paint and maintain the fire hydrant in a color scheme that is approved by the local agency having jurisdiction over fire protection.

(e) Obtain the approval of the local agency having jurisdiction over fire protection and the Commission before removing a fire hydrant from service.

(f) If the local agency having jurisdiction over fire protection has established a plan for inspecting fire hydrants, coordinate the utility's inspections with the local agency.

2. The Commission hereby adopts by reference:

(a) The *International Fire Code*, 2006 edition, published by the International Code Council. The publication may be obtained from the International Code Council, 500 New Jersey Avenue, N.W., 6th Floor, Washington, D.C. 20001-2070, by telephone at (800) 422-7233, or at the Internet address <http://www.iccsafe.org> *for a fee.* ~~The price of the publication is \$64.00 for members and \$85.50 for nonmembers.~~

3. The Commission will review each revision of the publications adopted by reference pursuant to subsection 2 to determine its suitability for this State. If the Commission determines that the revision is not suitable for this State, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Commission does not revise its determination, the Commission will give notice that the revision is not suitable for this State within 30 days after the hearing. If the Commission does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 2.

Sec. 16. NAC 704.640 is hereby amended to read as follows:

1. The Commission hereby adopts by reference the regulations contained in 18 C.F.R. Parts 201 and 204 ~~as those regulations exist on April 1, 2009~~ *in the form most recently published by the United States Government Printing Office.* The volume containing the Uniform System of Accounts for Natural Gas Companies is available by mail from the Superintendent of Documents, United States Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, by toll-free telephone at (866) 512-1800 or on the Internet at <http://bookstore.gpo.gov>, for ~~the price of \$68~~ *a fee.* The volume may be accessed free of charge on the Internet at <http://www.gpoaccess.gov/cfr/index.html>.

2. ~~If the publication adopted by reference pursuant to subsection 1 is revised, the Commission will review the revision~~*The Commission will review each revision of the publication adopted by reference pursuant to subsection 1* to determine its suitability for this State. If the Commission determines that the revision is not suitable for this State, the Commission will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Commission does not revise its determination, the Commission will give notice that the revision is not suitable for this State within 30 days after the hearing. If the Commission does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.

Sec. 17. NAC 704.650 is hereby amended to read as follows:

1. The Commission hereby adopts by reference the regulations contained in 18 C.F.R. Parts 41, 101 and 290~~[as those regulations exist on April 1, 2009]~~ *in the form most recently published by the United States Government Printing Office*. The volume containing 18 C.F.R. 1-399 is available by mail from the Superintendent of Documents, United States Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, by toll-free telephone at (866) 512-1800 or on the Internet at <http://bookstore.gpo.gov>, for *a fee*~~[the price of \$68]~~. The volume may be accessed free of charge on the Internet at <http://www.gpoaccess.gov/cfr/index.html>.

2. ~~If the publication adopted by reference pursuant to subsection 1 is revised, the Commission will review the revision~~*The Commission will review each revision of the publication adopted by reference pursuant to subsection 1* to determine its suitability for this State. If the Commission determines that the revision is not suitable for this State, the

Commission will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Commission does not revise its determination, the Commission will give notice that the revision is not suitable for this State within 30 days after the hearing. If the Commission does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.

Sec. 18. NAC 704.7559 is hereby amended to read as follows:

1. Statement E must contain the applicant's assurance to the Commission that the:

(a) Applicant has allocated its expenses, including all taxes and investment in the rate base, according to the standards set forth in the Federal Communications Commission's *Separations Manual*, 47 C.F.R. 67.1, or as otherwise directed by the Commission. The manual is hereby adopted by reference ~~as it existed on June 15, 1985~~ *in the form most recently adopted by the Federal Communications Commission*. A copy of the manual may be obtained from the National Association of State Utility Regulatory Commissioners, Interstate Commerce Commission Building, P.O. Box 684, Washington, D.C. 20044-0684, for ~~the price of \$2.50~~ **a fee.**

(b) Studies of cost which it used in the preparation of the application are available for inspection at a single, identified location.

(c) Applicant's employees and consultants who participated in the preparation of the application will be made available, upon request, to aid the Commission's staff and the Consumer's Advocate.

2. The applicant's working papers must fully disclose the source and method of calculation of all allocations which are used in adjustments and are related to the effect of divestiture.

Sec. 19. NAC 704.803 is hereby amended to read as follows:

The Commission hereby adopts by reference:

1. *Energy Standard 90.1, 2001 User's Manual*, published by the American Society of Heating, Refrigeration and Air-Conditioning Engineers, ~~as the manual existed on January 1, 2006~~ *in the form most recently published by the American Society of Heating, Refrigeration and Air-Conditioning Engineers*. A copy of this publication may be obtained from ASHRAE, Publication Sales Department, 1791 Tullie Circle, N.E., Atlanta, Georgia 30329-2305, for ~~the price of \$74 for members and \$93 for nonmembers~~ *a fee*.

2. The ~~2006~~ *International Energy Conservation Code*, published by the International Code Council *in the form most recently published by the International Code Council*. This code may be obtained from the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, Virginia 22041-3401, or at the Internet address <http://www.iccsafe.org>, for ~~the price of \$25 for members and \$31 for nonmembers~~ *a fee*.

Sec. 20. NAC 704.8775 is hereby amended to read as follows:

1. The provisions of 18 C.F.R. §§ 292.101 to 292.207, inclusive, are hereby adopted by reference ~~as those provisions existed on April 1, 1991~~ *in the form most recently published by the U.S. Government Printing Office*.

2. A copy of those provisions may be obtained from the Commission at its offices, for ~~the price of 25 cents per page~~ *a fee*.

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