

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

LCB File No. R113-17

November 15, 2017

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

AUTHORITY: §§1 and 2, NRS 703.025, 704.210 and 704.6881.

A REGULATION relating to telecommunications; authorizing the Public Utilities Commission of Nevada to exempt certain telecommunication providers from certain requirements relating to plans intended to encourage competition and discourage discriminatory conduct in the provision of certain telecommunication services; removing the requirement to have such plans reviewed regularly by the Commission; revising provisions governing the modification of a plan of a telecommunication provider which has been approved by the Commission; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Public Utilities Commission of Nevada to adopt regulations which establish: (1) standards of performance and reporting requirements regarding the provision of interconnection, unbundled network elements and resold services to encourage competition and discourage discriminatory conduct in the provision of local telecommunication services; and (2) penalties and expedited procedures for imposing those penalties upon a telecommunication provider for actions that are inconsistent with the standards of performance. (NRS 704.6881) Existing regulations require a nonrural incumbent local exchange carrier to file with the Commission a request for approval of a plan for the reporting and auditing of performance measures and a plan establishing performance incentives. (NAC 704.680303) Once a plan is approved, existing regulations require a nonrural incumbent local exchange carrier to submit to the Commission a request for review of the plan on a triennial basis and to create a monthly report of performance measurements included in the plan. (NAC 704.680303, 704.680309)

Section 1 of this regulation authorizes a telecommunication provider that was required to file a plan prior to January 1, 2018, to file with the Commission a petition requesting an exemption, in whole or in part, from the requirements relating to a plan for the reporting and auditing of performance measurements and a plan establishing performance incentives. **Section 1** further provides that the Commission will grant such an exemption if the Commission finds that: (1) the requirement for which an exemption is sought is no longer necessary to encourage competition and discourage discriminatory conduct in the provision of local telecommunication service; and (2) the exemption would not be contrary to the public interest. If a petition for an

exemption is denied, **section 1** prohibits the telecommunication provider who filed the petition from filing another petition for at least 18 months after the date on which the denied petition was filed.

Section 2 of this regulation removes the requirement that an approved plan be reviewed by the Commission triennially and instead provides that a plan remains in effect until the Commission: (1) modifies the plan; or (2) exempts the telecommunication provider from some or all of the requirements for such a plan. **Section 2** also revises existing regulations governing requests for modification of a plan of a telecommunication provider by: (1) removing the requirement that a request for modification may only be filed if good cause for the request is shown; (2) removing the requirement for the Commission to hold a hearing only if good cause is shown and, instead, requiring the Commission to conduct a hearing on a petition for modification of a plan if a party requests a hearing; and (3) prohibiting a competitive local exchange carrier or a telecommunication provider from filing a petition for modification if, within the immediately preceding 18 months, the Commission issued an order approving, denying or modifying a petition filed by that competitive local exchange carrier or telecommunication provider.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto a new section to read as follows:

1. Any telecommunication provider required to file a plan pursuant to NAC 704.680303 prior to January 1, 2018, may file with the Commission a petition requesting an exemption, in whole or in part, from the requirements of NAC 704.680303 to 704.680315, inclusive. The Commission will, at the request of any party, conduct a hearing on the petition and issue an order denying the petition or setting forth the requirements of NAC 704.680303 to 704.680315, inclusive, from which the telecommunication provider is exempt.

2. If a telecommunication provider files a petition pursuant to subsection 1, the Commission will exempt the telecommunication provider from a requirement of NAC 704.680303 to 704.680315, inclusive, if the Commission finds that:

(a) The requirement is no longer necessary to encourage competition and discourage discriminatory conduct in the provision of local telecommunication services; and

(b) The granting of the exemption would not be contrary to the public interest.

3. *If the Commission issues an order granting a telecommunication provider an exemption, in whole or in part, from the requirements of NAC 704.680303 to 704.680315, inclusive, the telecommunication provider is exempt from those requirements to the extent set forth in the order.*

4. *If the Commission denies a petition filed pursuant to subsection 1, the telecommunication provider who submitted the petition may not file another petition pursuant to this section until at least 18 months after the filing date of the petition that was denied.*

Sec. 2. NAC 704.680303 is hereby amended to read as follows:

704.680303 1. A nonrural incumbent local exchange carrier shall, in accordance with NAC 704.6803 to 704.680315, inclusive, *and section 1 of this regulation*, file with the Commission a request for the approval of:

- (a) A plan for the reporting and auditing of performance measures; and
- (b) A plan establishing performance incentives.

2. The Commission will conduct a hearing on a request for approval of the plans submitted pursuant to subsection 1. At such a hearing, any certificated competitive local exchange carrier doing business in the service areas of the nonrural incumbent local exchange carrier that filed the request for approval may request modifications to the plans.

3. The Commission will issue an order granting, denying or modifying a request for the approval *or modification* of the plans ~~+~~ *submitted pursuant to subsection 1 or 5.*

4. ~~If the plans of a nonrural incumbent local exchange carrier are~~ *A plan which is* approved by the Commission pursuant to this section ~~+, the nonrural incumbent local exchange carrier shall file a request for review by the Commission of the plans. The request for review must be filed:~~

~~—(a) If the Commission approved the plans on or before October 24, 2002, not later than January 31, 2003, and not later than January 31 of every third year thereafter; or~~

~~—(b) If the Commission approved the plans after October 24, 2002, not later than January 31 of the third year following the year in which the plans are approved, and not later than January 31 of every third year thereafter.]~~ *remains in effect until the Commission:*

(a) Modifies the plan pursuant to this section; or

(b) Issues an order pursuant to section 1 of this regulation exempting the telecommunication provider from the requirement to file the plan or from a requirement set forth in the plan.

5. ~~[The Commission may, upon good cause shown, conduct a hearing and issue an order in accordance with this section on a request for the renewal of the approval of the Commission of the plan.~~

~~—6. Unless good cause is shown, no person may request a modification of the plans except as otherwise provided in this section. If good cause is shown, the Commission will treat a request for modification as a request for approval subject to the provisions of this section.]~~ *Except as otherwise provided in subsection 6, a certificated competitive local exchange carrier may file with the Commission a petition requesting modification of a plan of a telecommunication provider. A petition filed pursuant to this subsection by a certificated competitive local exchange carrier may include, without limitation, revisions or additions to the performance measurements filed pursuant to NAC 704.680305 or to a system of penalties determined pursuant to NAC 704.680315. Except as otherwise provided in subsection 6, a telecommunication provider may file with the Commission a petition requesting modification of a plan of the telecommunication provider. At the request of any party to a petition filed*

pursuant to this subsection by a certificated competitive local exchange carrier or a telecommunication provider, the Commission will hold a hearing on the petition.

6. A certificated competitive local exchange carrier or a telecommunication provider may not file with the Commission a petition for modification of a plan if, within the 18 months immediately preceding the filing date of the petition, the Commission issued an order granting, denying or modifying a petition filed by that certificated competitive local exchange carrier or telecommunication provider.