

ADOPTED REGULATION OF THE PUBLIC UTILITIES

COMMISSION OF NEVADA

LCB File No. R012-97

Effective November 14, 1997

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

AUTHORITY: §§2-10, NRS 233B.040, 233B.050 and 704.210.

Section 1. Chapter 703 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *The provisions of sections 2 to 10, inclusive, of this regulation apply to any request or petition submitted to the commission pursuant to sections 251 and 252 of the Telecommunications Act of 1996, Public Law No. 104-104, 110 Stat. 56 (47 U.S.C. §§ 251 and 252).*

Sec. 3. *Except as otherwise provided in sections 2 to 10, inclusive, of this regulation, any proceeding undertaken by the commission pursuant to sections 2 to 10, inclusive, of this regulation must be conducted by a presiding commissioner. All such proceedings must be conducted in accordance with the procedures set forth in sections 2 to 10, inclusive, of this regulation and the provisions of this chapter which are not in conflict with those sections.*

Sec. 4. *In any proceeding undertaken by the commission in response to a request submitted to the commission pursuant to 47 U.S.C. § 252 to arbitrate unresolved issues or to approve a negotiated or mediated agreement:*

1. The petitioner and any other party to the negotiation or agreement who is not petitioning:

(a) Will be recognized as parties; and

(b) May engage in discovery, submit testimony, examine witnesses and otherwise fully participate in the proceedings.

2. The staff of the commission, as designated by the commission, and the consumer advocate may:

(a) Engage in discovery;

(b) Participate in any public hearing;

(c) Review unredacted copies of filings and responses to requests for discovery by the parties upon the execution of an appropriate protective agreement by the staff or the consumer advocate, as appropriate; and

(d) Submit comments and recommendations to the presiding commissioner pursuant to the schedule for the submission of such comments and recommendations established by the presiding commissioner.

3. Any other interested person or entity that files a notice of intent to comment with the commission may:

(a) Participate in any public hearing;

(b) Review unredacted copies of filings and responses to requests for discovery by the parties upon the execution of an appropriate protective agreement by the person or entity seeking to review the filings and responses; and

(c) Submit comments and recommendations to the presiding commissioner pursuant to the schedule for the submission of such comments and recommendations established by the presiding commissioner.

Sec. 5. *1. A petition for arbitration of unresolved issues submitted in accordance with 47 U.S.C. § 252 must include, in addition to the information required by 47 U.S.C. § 252(b)(2):*

(a) The name of the person or entity submitting the petition.

(b) The name of the person or entity with whom the petitioner has been negotiating.

(c) The date on which the request to negotiate was submitted to the local exchange carrier.

(d) A copy of the request to negotiate and, if any dispute exists regarding the date on which the request was submitted to or received by the local exchange carrier, as appropriate, an explanation of the dispute.

(e) A description of the relief which is being requested and a copy of the agreement or proposed language for an agreement for interconnection services or network elements which is being proposed by the petitioner.

(f) Reference to any:

(1) Regulations or statutes; or

(2) Opinions or decisions of the Federal Communications Commission, the commission, the federal or state courts, or other persons or entities, which the petitioner believes are relevant to the resolution of the dispute.

(g) A copy of all available studies and other materials relating to cost and pricing which justify or support the position of the petitioner.

(h) A certificate of service demonstrating that the petition has been served upon the other party to the negotiations, the staff of the commission and the consumer advocate and that a copy of the petition has been provided to each person and entity on the list for notification established pursuant to section 10 of this regulation.

(i) Any other information that the petitioner believes will be useful to the commission.

2. An answer filed pursuant to 47 U.S.C. § 252(b)(3) must include:

(a) A response to each allegation made by the petitioner.

(b) The position on each unresolved issue which the answering party recommends that the commission adopt and a copy of the agreement or proposed language for an agreement for interconnection services or network elements, or both, which the answering party supports.

(c) 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 answering party believes are relevant to the resolution of the dispute.

(d) Copies of all available studies and other materials relating to cost and pricing which justify or support the position of the answering party.

(e) A certificate of service demonstrating that the answer has been served upon all other parties to the negotiations, the staff of the commission and the consumer advocate and that copies of the answer have been provided to each person and entity who has filed a notice of intent to comment with the commission.

(f) Any other information which the answering party believes will be useful to the commission.

Sec. 6. *1. The presiding commissioner of a proceeding concerning a petition for arbitration filed in accordance with 47 U.S.C. § 252 shall use such procedures as are necessary to enable the presiding commissioner to issue a proposed order regarding the issues which have been submitted for resolution not later than 240 days after the date on which the request for negotiation was submitted to the local exchange carrier.*

2. Not later than 10 days after the date on which a petition for arbitration is filed with the commission, 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 section 10 of this regulation, that a petition for arbitration has been received.

The notice must specify the date:

(a) By which an answer must be filed.

(b) By which a notice of intent to comment must be filed.

(c) On which a prehearing conference will be convened.

3. *An order for a prehearing conference issued by a presiding commissioner to consider a petition for arbitration must specify:*

(a) The date on which an evidentiary hearing will be convened; and

(b) Any other matters deemed appropriate by the presiding commissioner, including reply comments, if desired.

4. *The presiding commissioner shall prepare a proposed order which must be submitted to the commission not later than 240 days after the date on which the request to negotiate was submitted to the local exchange carrier. The proposed order must be:*

(a) Filed with the commission;

(b) Served on the parties to the proceeding, the staff of the commission and the consumer advocate; and

(c) Provided to each person and entity who filed a notice of intent to comment.

5. *Any party or interested person or entity may file comments regarding the proposed order not later than 10 days after the date on which it is filed with the commission. The scope of such comments must be limited to whether:*

(a) The proposed agreement adopted by the proposed order discriminates against any telecommunications carrier that is not a party to the agreement;

(b) The implementation of the proposed agreement is consistent with the public interest, convenience and necessity; or

(c) The proposed 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.

6. Any party or interested person or entity may file a response to any comments filed pursuant to subsection 5. Such responses must be filed with the commission not later than 5 days after the date on which the comments are filed and may not exceed five pages in length.

Sec. 7. *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 the petition has been served upon the other party to the negotiations, the staff of the commission and the consumer advocate and provided to each person and entity on the list for notification established pursuant to section 10 of this regulation.

(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 section 10 of this regulation, that a petition for approval has been received and will be processed pursuant to the procedural schedule set forth in the notice.

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 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 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. 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. 8. *1. A petition for the approval of a statement of generally accepted terms filed by a Bell operating company in accordance with 47 U.S.C. § 252(f) must be accompanied by a certificate of service demonstrating that the petition has been served upon the staff of the commission and the consumer advocate and provided to each person and entity on the list for notification established pursuant to section 10 of this regulation.*

2. Any interested person or entity may file written comments about a statement of generally accepted terms filed in accordance with 47 U.S.C. § 252(f) not later than 30 days

after the date on which the statement of generally accepted terms is submitted to the commission for approval.

3. The Bell operating company that submitted the statement of generally accepted terms in accordance with 47 U.S.C. § 252(f) may file a written response to any comments filed pursuant to subsection 2. Such a response must be filed with the commission not later than 10 days after the date on which the comments are submitted to the commission pursuant to subsection 2.

4. As used in this section, “Bell operating company” has the meaning ascribed to it in 47 U.S.C. § 153, as that section existed on the effective date of this regulation.

Sec. 9. *1. Any party to a negotiation may pursue mediation of any unresolved issue. To initiate such mediation, the party must:*

(a) Advise the other party to the negotiations that mediation is desired and propose a natural person to serve as a mediator; or

(b) Submit a petition to the commission for the designation of a mediator. Such a petition must include:

(1) A statement of the issues to be submitted to mediation.

(2) A list of potential mediators, if desired by the petitioner.

(3) A certificate of service demonstrating that the petition has been served on the other party to the negotiations, the staff of the commission and the consumer advocate.

2. Not later than 7 days after the date on which the petition requesting mediation is filed, the other party to the negotiation may:

(a) Identify other potential mediators;

(b) Indicate whether any of the mediators proposed by the petitioner are acceptable;

and

(c) Identify any additional issues that should be subject to mediation.

3. Not later than 15 days after the date on which the commission receives the petition, the commission will issue an order advising the parties of the name of the person who will serve as mediator and attach to the order a list of the issues that the parties have requested be subject to mediation.

4. The parties to the mediation shall pay for the cost of the mediation as follows:

(a) Fifty percent of the cost must be paid by the petitioning party.

(b) Fifty percent of the cost must be paid by the party who is not petitioning.

5. A mediator shall conduct the mediation without supervision by the commission. Any session conducted by the mediator is not a public hearing or proceeding, and the mediator is not subject to any procedural requirements established by this chapter or chapter 704 of NAC.

6. In conducting a mediation in accordance with this section, a mediator is not acting as an agent of the commission and has no authority to act on behalf of or otherwise bind the commission to any mediated decision.

7. Any party to a mediation may unilaterally terminate the mediation if, after good faith efforts have been made to resolve any disputed issues, it does not appear that a mutually acceptable resolution of the issues will be achieved.

Sec. 10. *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 sections 2 to 10, inclusive, of this regulation.*

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.