

**NOTICE OF INTENT TO ACT UPON A REGULATION,  
REQUEST FOR COMMENTS, AND  
NOTICE OF HEARING**

On January 16, 1998, the Transportation Services Authority of Nevada ("Authority") opened Docket No. 98-1005 to investigate and possibly amend Chapter 706 of the Nevada Administrative Code with respect to the Authority's procedural regulations. At a regular scheduled and noticed Agenda Meeting held on July 23, 1998, the Authority voted to move forward with rulemaking procedures under NRS Chapter 233B in order to adopt the procedural regulations drafted in connection with Docket No. 98-1005.

The need for and purpose of the proposed language is to adopt procedural regulations for use in practice before the Authority as part of NAC Chapter 706, and to remove reference to the Authority and its procedures from NAC Chapter 703.

The proposed regulations are not expected to have adverse economic effect, either immediate or long-term, upon the regulated community or the public. The Authority does not envision any increased costs associated with enforcement of the proposed procedural regulations. The proposed procedural regulations do not overlap or duplicate any other state or local government regulations. The proposed procedural regulations do not establish a new fee or increase an existing fee.

NOTICE IS HEREBY GIVEN that a hearing has been scheduled as follows:  
THURSDAY, SEPTEMBER 17, 1998

10:00 a.m.

Grant Sawyer State Office Building  
555 E. Washington Avenue, Room 4401  
Las Vegas, Nevada 89101

and

Offices of the Transportation Services Authority  
75 Bank Street, Suite 1  
Sparks, Nevada 89431

**BY TELECONFERENCE**

for the purpose of receiving comments from all interested persons regarding the proposed regulations. Persons wishing to comment upon the proposed action of the Authority may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Authority at its Las Vegas office, 555 E. Washington Avenue, Suite 4600, Las Vegas, Nevada 89101, on or before Friday, September 11, 1998. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Authority may proceed immediately to act upon any written submissions.

The Authority may vote at the public hearing to adopt, in whole or in part, the proposed regulations.

A copy of this notice and the regulations to be adopted will be on file at the state Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulations to be adopted will be available at the Las Vegas and Sparks offices of the Authority, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.stae.nv.us>. Copies of this notice and the proposed procedural regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice has been posted at the county courthouses in Carson City, Reno and Las Vegas, Nevada

By the Authority,

Clayton L. Holstine, Deputy Commissioner

Dated: Las Vegas, Nevada

July 30, 1998

(SEAL)

**LCB File No. R071-98**

**PROPOSED REGULATION OF THE  
TRANSPORTATION SERVICES AUTHORITY**

**Note to editor: NAC 703.010 - 703.165, NAC 703.215, NAC 703.335 - 703.370, NAC 703.490 - 703.890 are provisions of the existing NAC Ch. 703 which are currently utilized by the Transportation Services Authority. These provisions are contained below in Sections 1 -114 unless the TSA has expressly chosen to not adopt the provision or a similar provision in NAC Ch. 706. It should be noted that Sections 1 - 114 contain minor modifications to the corresponding NAC Ch. 703 provisions where the TSA has found it appropriate to do so. Also, NAC 703.060, 703.165, 703.215, and 703.335-370 are**

provisions that are exclusively related to the regulation of transportation and have no applicability to utility regulation. Upon confirmation by the Public Utilities Commission, said provisions should be deleted from NAC Ch. 703.

**Section 1.** Chapter 706 of NAC is hereby amended by adding thereto provisions set forth as sections 2 through 114, inclusive of the regulation.

## **PRACTICE BEFORE THE TRANSPORTATION SERVICES AUTHORITY**

### **General Provisions**

**Sec. 2. Definitions. [NAC 703.010]**

As used in this chapter, unless the context otherwise requires, the words and terms defined in section 3 to section 17, inclusive, have the meanings ascribed to them in those sections.

**Sec. 3. “Application” defined. [NAC 703.015]** “Application” means a request for relief filed with the Authority as specified in section 55.

**Sec. 4. “Business office” defined. [NAC 703.017]** “Business office” means any office of a motor carrier which is frequented by and regularly opened to the public but not a bank or other agent authorized by the carrier to accept, for the convenience of a customer, the payment of a bill of charges.

**Sec. 5. “Authority” defined.** [NAC 703.020] “Authority” means the Transportation Services Authority of Nevada.

**Sec. 6. “Commissioner” defined.** [NAC 703.025] “Commissioner” means a member of the authority appointed pursuant to chapter 706 of NRS.

**Sec. 7. “Authority’s staff” defined.** [NAC 703.030] “Authority’s staff” means persons employed by the authority.

**Sec. 8. “Complaint” defined.** [NAC 703.035] “Complaint” means a request for relief filed with the authority pursuant to section 78 or section 108.

**Sec. 9. “Hearing” defined.** [NAC 703.050] “Hearing” means any public proceeding that is noticed by the authority in accordance with applicable statutes and regulations.

**Sec. 10. “Motion” defined.** [NAC 703.055] “Motion” means a request for relief filed with the authority pursuant to section 57.

**Sec. 11. “Motor carrier” defined.** [NAC 703.060] “Motor carrier” means any person or operator who is supervised, controlled or regulated pursuant to chapter 706 of NRS.

**Sec. 12. “Party of record” defined.** [NAC 703.070] “Party of record” means an applicant, complainant, petitioner, respondent, or an intervener whose petition for leave to intervene has been granted, in whole or in part, by the authority.

**[NAC 703.075 not carried over]**

**Sec. 13. “Petition” defined.** [NAC 703.080] “Petition” means a request for relief made to the authority pursuant to section 55.

**Sec. 14. “Pleading” defined.** [NAC 703.085] “Pleading” means any application, petition, complaint, answer, protest or motion filed with the authority in any proceeding.

**Sec. 15. “Presiding officer” defined.** [NAC 703.090] “Presiding officer” means the chairman of the authority or a commissioner designated by the chairman to preside over a hearing.

**Sec. 16. “Rebuttal” defined.** [NAC 703.097] “Rebuttal” means evidence offered by the applicant, petitioner or complainant which must directly explain, repel, counteract or disprove facts offered in evidence by parties of record opposing the application, petition or complaint.

**Sec. 17. “Deputy Commissioner” defined. [NAC 703.100]** “Deputy Commissioner” means the deputy commissioner of the authority who is appointed by the chairman of the authority.

**Sec. 17A. Scope: applicability of Nevada Rules of Civil Procedure. [NAC 703.105]**

1. The provisions of this chapter govern practice before the authority.
2. To the extent that any action before the authority is not covered by these provisions, the authority may utilize the applicable rule of the Nevada Rules of Civil Procedure to the extent it deems appropriate.

**Sec. 18. Construction. [NAC 703.110]** The provisions of this chapter and any regulations incorporated by reference will be construed by the authority or any presiding officer as to secure a just and speedy determination of the issues.

**Sec. 19. Severability. [NAC 703.112]** If any provision of this chapter or any application thereof to any person, thing or circumstance is held invalid, the authority intends that such invalidity not affect the remaining provisions, or their application, that can be given effect without the invalid provision or application.

**Sec. 20. Deviation from regulations. [NAC 703.115]** The authority will and presiding officer shall permit deviation from the provisions of this chapter if good cause for deviation appears.

**Sec. 21. Computation and extension of time. [NAC 703.120]** Except as otherwise provided by law:

1. In computing any period prescribed or allowed by any regulation of the authority, the day of the act, event or default from or after which the designated period begins to run is not included. The last day of the period so computed is included, but if it is a Saturday, Sunday or legal holiday, the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.
2. Whenever an act is required or allowed under any regulation of the authority, or any notice given thereunder, to be done within a specified period, the period will be extended by the authority for good cause upon a motion made before the specified period expires.

**Sec. 22. Fees and remittances. [NAC 703.125]** A fee or remittance by money order, bank draft or check to the authority must be made payable to the “Transportation Services Authority of Nevada.” A remittance in currency or coin is acceptable but is sent wholly at the risk of the remitter, and the authority assumes no responsibility for the loss of such a remittance. An application fee or other charge required by law must be paid to the authority at the time of filing with the authority.

**Sec. 23. Public records. [NAC 703.130]**

1. Except as otherwise provided by law, all documents filed with the authority become matters of public record as of the day and time of their filing. The deputy commissioner,

within reasonable limits of time and general expediency, shall permit members of the public to examine these public records.

2. Upon request, copies of public records will be made and a reasonable fee will be charged for the cost of reproduction. Copies of transcripts must first be requested from the court reporter or transcriber who made the transcript.

**Sec. 24. Rejection of documents. [NAC 703.140]** A document which is not in compliance with the provisions of this chapter or applicable statutes may be rejected. If rejected, that document will be returned with an indication of its deficiencies. The acceptance of a document for filing is not a determination that the document complies with all regulations of the authority and is not a waiver of those regulations.

**Sec. 25. Receipt of communications and documents. [NAC 703.145]** A written communication or document is considered officially received by the authority only if it is:

1. Filed at the authority's office in Las Vegas and addressed to the deputy commissioner;
- or
2. Presented to the authority during a hearing.

**Sec. 26. Nature of proceedings. [NAC 703.150]** Proceedings before the authority are investigative on the part of the authority, although they may be conducted in the form of adversary proceedings.

**Sec. 27. Duties of deputy commissioner. [NAC 703.155]**

1. The deputy commissioner has custody of the minutes of the authority's proceedings, of its regulations and of all other records of the authority, including its administrative orders. Orders of the authority will be authenticated or signed by the deputy commissioner or by another person authorized by the authority.

2. The deputy commissioner will maintain a hearing calendar of all scheduled hearings at the authority's office in Las Vegas. The hearing calendar is available for public inspection at all times.

3. The deputy commissioner will maintain a docket of all matters pending before the authority and will assign an appropriate docket number to each new matter. The docket is available at the authority's office in Las Vegas for public inspection.

**Sec. 28. Public notice of application or tariff filing. [NAC 703.160]**

1. If an authorization, expansion, reduction or curtailment of services, facilities or authority, increase in rates, fares or charges, or any change in regulations is filed by application or tariff filing and said filing is not rejected pursuant to Section 24, the deputy commissioner shall publish a notice of the application or tariff filing within 15 working days of acceptance unless circumstances dictate otherwise.

2. If the deputy commissioner determines that the proposal will have a statewide effect, he shall have the notice published at least once in four or more newspapers of general circulation in this state, no two of which are published in the same county.

3. If the deputy commissioner determines that the proposal will have an effect on a limited number of counties, he shall have the notice published once in a newspaper of general

circulation in each county affected. If there is no newspaper published in an affected county, then the deputy commissioner shall have the notice published in a newspaper in an adjoining county.

4. The notice must be an advertisement which is reasonably calculated to notify affected persons and must include:

- (a) The applicant's name or the name of the agent for the applicant;
- (b) A brief description of the applicant's proposal;
- (c) Where the proposal is on file for the public; and
- (d) The date by which persons must file a protest or petition for leave to intervene with the authority.

5. The deputy commissioner shall have the notice published in the appropriate newspapers not less than 3 working days before the proposal becomes effective.

6. The applicant shall pay the cost of the publication.

**Sec. 29. Applications for certificates and permits. [NAC 703.165]** An application for a certificate of public convenience and necessity, an expansion of modification to an existing certificate, a sale and transfer of an existing certificate, the sale and transfer of 15% or more of the stock of a corporation, or the sale and transfer of any partnership interest, made pursuant to NRS 706.386 to 706.411, inclusive, or for a permit to act as a contract carrier made pursuant to NRS 706.421 to 706.436, inclusive, must, in addition to complying with the provisions of this chapter applicable to pleadings, contain the following data unless not applicable by statute, either in the application or as exhibits attached thereto:

1. The type of service, if any, presently being performed by the applicant, a general description of the service and a reference to the authority under which the service is being performed.

2. The type of service proposed, a general description of the service and a reference to the authority under which the service is to be performed.

3. The specific authority requested and the statutory provision under which the certificate is requested.

4. If the applicant proposes to be a carrier of property, a description of the specific commodities proposed to be transported, and if general commodities with exceptions are proposed to be transported, a statement specifying those exceptions.

5. The geographical area proposed to be served under the certificate, including the terminal and other points to be served, the number and location of points where equipment will be located, and a concise, narrative description of the proposed route.

6. A map or sketch of the route and points to be served, drawn to a suitable scale which is indicated on the map or sketch. The map or sketch must show present and proposed operations by distinctive coloring or marking.

7. A copy of each proposed contract.

8. A statement of the rates or fares proposed to be charged and the rules governing service in the form of a tariff prepared pursuant to section 30 to section 37, inclusive.

9. The type and approximate number of units of equipment to be used in the proposed service and a statement as to which units of equipment are owned by the applicant.

10. A statement indicating the frequency of the proposed service. If “on-call” service is proposed, the application must set forth the conditions under which the service would be performed.

11. A statement of the qualifications and experience of the personnel who will manage and operate the proposed service and the proposed operating procedures related to service, safety, maintenance, drivers’ training, billing, relations with customers and the keeping of records.

12. A statement describing the facilities which will be used to provide the proposed service, such as terminals, shops, warehouses or offices.

13. Facts showing that the proposed operation is or will be required for public convenience and necessity.

14. If the applicant is a corporation, a copy of its articles of incorporation, certified by the secretary of state, and all effective amendments. If the articles of incorporation have been previously filed with the authority, the applicant need only make a specific reference to that filing.

15. Evidence that the applicant is financially able to operate the proposed business, including:

(a) A statement outlining the extent the applicant has been in the motor carrier business before filing the application.

(b) A statement of income for the 12-month period immediately preceding the application.

(c) A pro forma statement of income for the first 12-month period of the proposed operation using the proposed rates.

(d) A balance sheet which was prepared not more than 6 months before the date of the application which:

(1) For a sole proprietorship or partnership, must reflect the personal and business operations of the sole proprietor or each general partner.

(2) For a corporation or partnership, must reflect the entire business operations.

(e) A list of the names and addresses of all transportation entities owned by or under the control of the applicant.

All financial statements must be prepared pursuant to generally accepted accounting principles, except that a sole proprietor’s or general partner’s personal financial statement may be prepared on the basis of estimated values.

16. If the applicant is operating under a fictitious name, a copy of the certificate filed pursuant to chapter 602 of NRS. If the applicant has previously filed a copy of the certificate with the authority, the applicant need only make reference to that filing.

17. Evidence that the applicant can secure the insurance required by NAC 706.191.

18. If the applicant is proposing to transport household goods and effects, proof that the applicant has the ability to store such goods and effects in a warehouse operated in accordance with the requirements of chapter 712 of NRS. As used in this subsection, “warehouse” includes any structure used for the reception and storage of household goods and effects.

19. Additional information as is necessary for a full understanding of the application.

20. If any item required herein or by statute is found to be missing or otherwise deficient after acceptance of the application or filing, the authority will notify the applicant of said deficiency in writing to the address listed on the application or filing. If the applicant does not cure said deficiency within 15 working days of the issuance of said notification, the deputy

commissioner shall move for dismissal of the application or filing at the next regular agenda meeting of the authority.

## **Tariffs**

**Sec. 30. Definitions. [NAC 703.335]** As used in section 30 to section 37, inclusive, unless the context otherwise requires:

1. “Rate” means any charge or fare and any regulation which affects a rate.
2. “Supplement” or “Tariff” means any regulation, classification, exception to a classification, and class, commodity, special and hourly rate under which a motor carrier operates.

**Sec. 31. Scope. [NAC 703.340]** The provisions of section 30 to section 37, inclusive, govern the filing of an intrastate tariff or supplement, classification or other reference tariff which contains the rates and regulations governing the operation of motor carriers.

**Sec. 32. Applications for changes in rates. [NAC 703.215]**

1. In addition to the requirements established for pleadings, an application for a change in tariff of any motor carrier, issuing agency or agent, including new rates for services authorized under a certificate, and new rules and regulations under a carrier’s tariff, must include as exhibits attached thereto:

(a) A statement in the form of a tariff showing in full the rates or fares or the regulations desired to be put into effect.

(b) A statement in the form of a tariff showing the rates or fares or the regulations which will be superseded by the proposed tariff.

(c) A complete and accurate statement of the circumstances and conditions relied on as justification for the proposed change, may include the following information:

(1) The change in the total amount of intrastate revenue in Nevada the proposed rates would have produced if the rates had been in effect during the prior year.

(2) The applicant’s reasons the proposed rates would be reasonable.

(d) An operating statement for the full 12-month period immediately preceding the date of application, insofar as is practicable.

(e) A balance sheet for the entire operations of the carrier as of the date of the statement required in paragraph (d).

(f) In any application for any item that has not previously been included in the applicant’s tariff, sufficient cost data, including a twelve month pro forma income statement, to demonstrate that the proposed rate would be fully compensatory and would not involve an excessive charge.

(g) Such information as the authority or the applicant considers to be necessary or appropriate for a complete understanding of the application.

2. Suggested language for the public notice to be published in accordance with section 28 may be submitted by the applicant.

3. The provisions of this section apply to all applications for rate changes made by common and contract motor carriers under the jurisdiction of the authority.

**Sec. 33. Form of tariffs and supplements. [NAC 703.345]**

1. Tariffs or supplements must be in loose-leaf form on good quality paper which is 8 1/2 by 11 inches, typed or reproduced by any clear, legible and durable process. If the tariff is also filed with the Interstate Commerce Commission and the Interstate Commerce Commission permits a size or format different from that specified by the authority, that different size will be accepted by the authority.

2. The format must be as follows:

(a) On each page, a 1-inch margin must be provided on the left-hand or binding edge and a 1/2-inch margin provided on the right-hand side. No printing or writing may appear in these margins.

(b) Each page must be numbered in the upper left-hand corner beginning with "Original Title Page, Original Page 1, Original Page 2," and so forth.

(c) Each page (Form 24C\*), except the title page, must have:

(1) In the upper right-hand corner, the number of the authority assigned to that tariff by the motor carrier, issuing agency or agent.

(2) In the center at the top, the name of the carrier, issuing agency or agent and the name of the business, if any. The name, description and number of the tariff must be placed below the names.

(3) In the lower left-hand corner, between the text on the page and the statement of the issuing officer, the word "Issued" and on the same line in the lower right-hand corner, the word "Effective."

(4) On the bottom of the page, in the center, below "Issued" and "Effective," the words "Issued by" followed by the name of the issuing officer, his address, city, state and zip code number.

(d) The title page (Form 24A\*) must have:

(1) In the upper right-hand corner, the number of the authority assigned to that tariff by the motor carrier, issuing agency or agent.

(2) In the center of the page, the name of the carrier, issuing agency or agent and the name of the business, if any. The name, description and number of the tariff must be placed below the names.

(3) In the lower left-hand corner, the word "Issued" and, immediately below, the word "Effective." The lower right-hand corner must be left blank for use by the authority.

(4) On the bottom of the page, in the center, on the same line as "Issued," the words "Issued by," followed by the name of the issuing officer, his address, city, state and zip code number.

(e) Each new (Form 24D\*) or revised page filed must have the date of issue by the name of the motor carrier inserted after the title "Issued." The space after "Effective" may be left blank on strictly intrastate tariffs in Nevada. Any desired effective date in such a case must be included in the applicant's transmittal letter. An effective date must be inserted in the space after "Effective" in joint tariffs filed with the authority and the Interstate Commerce Commission.

(f) If a new or revised page is filed canceling a page (Form 24B\*), the new page must read:

1st revised page  
(fill in page number)  
cancels  
Original page  
(fill in page number)

A revised page only cancels one page and does not cancel any other page.

(g) Except as otherwise provided in section 81, six copies of regulations or rates, or both, must be filed with the authority at least 30 days before becoming effective.

(h) Any changes on a page which has been filed must be clearly marked with one of the following codes:

- (1)  
-Increase
- (2)  
-Reduction.
- (3)  
-Change resulting in neither an increase nor a reduction.
- (4) Any other pertinent symbol or abbreviation.

A separate page may be used for these codes (Form 24C\*) or, when symbols are used, a note explaining them may be placed at the bottom of the page or within the block containing the affected item.

(i) Each new or revised page must have a correction number assigned to it beginning with Correction No. 1 and continuing numerically as new or revised pages are entered in that tariff filing, inserted below the bottom line in the left-hand corner of the page (Form 24E\*). Each tariff filed shall have a checking sheet for correction numbers (Form 24C\*) on page 1 and must be referred to as that tariff filing is revised. One correction number must be assigned to each new or revised page, and no correction number may be used for more than one page.

(j) If any tariff is reissued that completely cancels a current tariff (Form 24E\*), the reissued tariff must bear the same tariff number as the current tariff, suffixed by a letter, for example, Tariff No. 1-A, and continuing through the alphabet as that tariff is reissued. The reissued tariff will be assigned a new number that does not duplicate any other number on any other tariff held by that motor carrier, issuing agency or agent and must be displayed on the reissued tariff as follows:

**T.S.A. No. 2**

cancels

**T.S.A. *or* P.S.C.N. No. 1**

Tariff No. 1-A

cancels

Tariff No. 1

**Sec. 34. Transmittal letter. [NAC 703.350]**

1. Each tariff filing must be accompanied by six copies of a transmittal letter and the appropriate filing fee. To acknowledge receipt of the filing, a copy of the transmittal letter will be dated and returned by the authority to the applicant.

2. The transmittal letter must state what effect, if any, the filing will have on the motor carrier's currently effective tariffs and include a reference to those tariffs affected.

**Sec. 35. Index required for tariff. [NAC 703.355]** Each loose-leaf or bound tariff and any supplement to a bound tariff which exceeds 10 pages, except supplements to rate increases, must have:

1. A table of contents, listing in alphabetical order all regulations and rate sections that are included in the filing. The table must state the item number, a brief description of the item and the page number where the item can be found.

2. If there is more than one carrier to a tariff filing, an alphabetical index of the participating carriers, listing each item number to which each listed carrier is a party.

3. A list of the certificates of public convenience and necessity in the state that are held by each motor carrier participating in the tariff filing. This list must contain a description of the routes or territory that the motor carrier is authorized to serve under each certificate and a list of the commodities that the motor carrier is authorized to transport under each certificate.

**Sec. 36. Tariff with change of condition. [NAC 703.360]** The filing of any tariff sheet which results in any change in any rate or charge or in a more restrictive condition must be filed as part of the application required under section 32.

**Sec. 37. Posting of tariffs. [NAC 703.365]**

1. Each motor carrier shall have posted, at each of its stations and offices, a complete copy of currently effective tariff schedules applicable to those stations and offices.

2. Each motor carrier shall maintain on file at its principal place of business a complete copy of all of its currently effective tariff schedules.

3. This rule does not require the motor carrier to post tariff schedules at other than its own offices or terminals.

**[NAC 703.370 not carried over]**

**Parties**

**Sec. 38. Classification of parties. [NAC 703.490]**

1. According to the nature of the proceedings before the authority and the relationships of the parties to the proceedings, a party to a proceeding must be styled an applicant, petitioner, complainant, respondent, intervener or protestant.

2. A person applying in the first instance for any privilege, right or authorization from the authority must be styled an "applicant."

3. A person who complains to the authority of any act by any person subject to the jurisdiction of the authority must be styled a "complainant."

4. A person granted leave to intervene under section 63 to section 66, inclusive, must be styled an “intervener.”

5. A person, other than a complainant or an applicant, petitioning for affirmative relief must be styled a “petitioner.”

6. Any person, including a state or local governmental entity, who objects to an application, petition or other matter and who files a protest under section 68 or makes a statement at a hearing must be styled a “protestant.” The filing of a protest does not make the protestant a party of record.

7. A person against whom any complaint is filed or a person who is the subject of any official investigation by the authority must be styled “respondent.”

**Sec. 39. Notice to parties. [NAC 703.492]**

1. The authority will provide notice of the pendency of any matter before the authority to the parties to the matter.

2. The notice of pendency will specify that the party may, within 10 days after the date of the notice, request a hearing on the matter.

3. If no request for a hearing is received by the authority, it will dispense with a hearing and act upon the matter unless it finds that a hearing is necessary.

**Sec. 40. Rights of Authority Staff. [NAC 703.495]** The authority’s staff may appear, be represented by the Attorney General and may otherwise participate in all proceedings before the authority.

**Sec. 41. Rights of parties. [NAC 703.500]**

1. At any proceeding before the authority, each party of record is entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, make and argue motions and generally participate in the proceeding to the extent allowed by the presiding officer.

2. The presiding officer shall acknowledge a protestant for the purpose of making a statement.

**Sec. 42. Appearances. [NAC 703.505]** A party may enter an appearance at the beginning of a hearing or at some other time designated by the presiding officer by giving his name and address. If a person is appearing on behalf of a party, he must also identify the party he represents.

**Sec. 43. Representation of parties; qualifications of attorneys. [NAC 703.510]**

1. A party may represent himself or may be represented by an attorney. Any other person who satisfies the authority or the presiding officer that he possesses the expertise to render valuable service to the authority, and that he is otherwise competent to advise and assist in the presentation of matters before the authority, may be allowed to appear on behalf of a party or parties.

2. An attorney at law appearing as counsel in any proceeding must be duly admitted to practice and in good standing before the highest court of any state. If an attorney is not

admitted and entitled to practice before the supreme court of Nevada, he must associate with an attorney so admitted and entitled to practice.

**[NAC 703.515 not carried over]**

**Sec. 44. Withdrawal of representative. [NAC 703.520]**

1. Any representative wishing to withdraw from a proceeding before the authority must make a motion stating the reasons for the requested withdrawal.
2. The presiding officer may order the representative to serve the motion in writing upon the party whom he represents and upon all other parties of record.

**Sec. 45. Conduct required. [NAC 703.525]**

1. Any person appearing in a proceeding must conform to recognized standards of ethical and courteous conduct required of practitioners before the courts of the state.
2. Contumacious conduct by any person at any hearing before the authority is a ground for the exclusion of that person from that hearing by the presiding officer and for summary suspension of that person from further participation in the proceedings. Any person excluded under this subsection shall be barred from attendance from any further proceedings of the authority.
3. Any person excluded from authority proceedings under subsection 2 of this section may petition the authority to recind said exclusion. The authority may grant or deny said petition in its descretion if it finds sufficient evidence that the contumacious conduct which led to the person's exclusion shall not re-occur.
4. Smoking is not permitted at any meeting or hearing of the authority.

### **Confidentiality of Information**

**Sec. 46. Definitions. [NAC 703.527]** As used in Section 46 to section 52, inclusive:

1. "Information" means any books, accounts, records, minutes, reports, papers and property of a person which are in the possession of, or have been provided to, the authority.
2. "Person" means a natural person, any form of business or social organization and any other legal entity, including, but not limited to, a corporation, partnership, association, trust, unincorporated organization, government, governmental agency or political subdivision of a government.
3. "Protective agreement" means an agreement pursuant to which a person agrees not to disclose, or otherwise make public, the information requested to be confidential and which specifies the manner in which the confidentiality of the information is to be treated.

**Sec. 47. Applicability. [NAC 703.5272]** The provisions set forth in Section 46 to section 52, inclusive, apply to all proceedings before the authority or any presiding officer.

**Sec. 48. Request for confidential treatment of information; procedure; responsibilities of authority; hearing. [NAC 703.5274]**

1. A person who requests that information, which is in the possession of the authority and pertains to that person, not be disclosed shall submit to:

(a) The deputy commissioner, one copy of the document which contains the information in an unredacted form. The document must be placed in a sealed envelope, and the envelope and each page of the document must be stamped with the word "Confidential."

(b) The authority, 10 copies of the document which redacts the information for which the confidential treatment is requested.

2. A request that information not be disclosed must be served on the authority's staff and must:

(a) Describe with particularity the information to be treated as confidential information;

(b) Specify the grounds for the claim of confidential treatment of the information; and

(c) Specify the period during which the information must not be disclosed.

3. Public disclosure of only those specific portions of a filing which contain information for which confidentiality is requested will be withheld or otherwise limited.

4. If the information for which confidentiality is requested is part of an application, petition or other initial filing, the application, petition or filing must comply with the provisions of this section. The authority's initial notice issued pursuant to section 39 will state that certain information contained in the application, petition or filing has been requested to be treated as confidential information.

5. The authority is responsible for the custody, maintenance, and return or disposal of confidential information in the possession of the authority and will:

(a) Maintain the confidential information separate and apart from all other records of the authority; and

(b) Adequately safeguard access to such information and ensure that confidential information is not divulged to unauthorized persons.

6. For the purpose of determining whether to accord confidential treatment to information in accordance with section 46 to section 52, inclusive, a presiding officer may review the information in camera.

7. A closed hearing held before a presiding officer must be held in accordance with the provisions of NRS 706.1725.

8. Notwithstanding the other provisions of this section, the authority's staff are entitled to receive information designated as confidential in accordance with section 46 to section 52, inclusive, if the authority's staff, as appropriate, has executed a protective agreement.

**Sec. 49. Prepared testimony containing or addressing information designated as confidential. [NAC 703.5276]** For information which has been determined to be confidential, the authority will, or presiding officer shall, in addition to the other procedures set forth in section 46 to section 52, inclusive:

1. Require that the prepared testimony which contains the confidential information not be disclosed except as otherwise specified in a protective agreement or a protective order issued by the authority or presiding officer; or

2. Unless otherwise agreed upon by the parties involved, require that the portion of the prepared testimony of a person which may address the confidential information be submitted to the party who had requested that the information not be disclosed, before the date that the prepared testimony is to be submitted to the authority or other parties.

**Sec. 50. Contents of protective order issued with regard to information designated as confidential. [NAC 703.5278]** If the authority or presiding officer determines that a protective order should be issued with regard to the information designated as confidential, the authority will, or presiding officer shall, issue a protective order which:

1. Describes generally the nature of the confidential information and the procedures to be utilized to protect the confidentiality of the information.
2. Specifies the period during which the disclosure of the information to the public will be withheld or otherwise limited.
3. Specifies the procedures to be used by each person during the pendency of the proceedings to ensure the confidentiality of the information.
4. Specifies the procedures for handling or returning the confidential information, as appropriate, upon the close of the proceedings or at the end of the period for which the information is to be treated as confidential.
5. Requires that the confidential information not be disclosed, except as:
  - (a) May be agreed upon by the parties pursuant to a protective agreement; or
  - (b) Otherwise directed by the authority or presiding officer.
6. Specifies the procedures to be used at the time of the evidentiary hearing to protect the confidentiality of the information.
7. Requires such other action as the authority or presiding officer deems appropriate under the circumstances.

**Sec. 51. Appeal of determination by presiding officer regarding treatment of confidential information; disclosure of information not designated confidential. [NAC 703.528]**

1. Any determination by the presiding officer regarding the treatment of confidential information may be appealed to the full authority in accordance with section 93. The information will be subject to public disclosure 3 business days after the date on which the presiding officer issues his order denying the request for confidentiality unless:
  - (a) The party who made the request appeals the decision of the presiding officer to the full authority; or
  - (b) Otherwise required by the order of a court of competent jurisdiction or agreed upon by the parties involved.
2. If the authority determines that the disclosure of information requested to be treated as confidential information is justified, the authority will:
  - (a) Issue an order to that effect; and
  - (b) Unless otherwise required by the order of a court of competent jurisdiction or agreed upon by the parties involved, continue to protect the information from public disclosure for the next 3 business days after the date on which the order denying the confidential treatment of the information is issued.

**Sec. 52. Disclosure of information designated as confidential; penalties. [NAC 703.5282]**

1. During the pendency of a proceeding, any person who receives information which has been designated as confidential in accordance with section 46 to section 52, inclusive:

(a) Shall not disclose the information unless the confidentiality of the information is waived. The confidentiality of information shall be deemed to be waived if:

(1) The person who requested that the information not be disclosed makes the information available to the public or otherwise authorizes its disclosure; or

(2) The authority or presiding officer enters an order which authorizes the disclosure of the information.

(b) May request, at any time, that the authority or presiding officer make a determination that the disclosure of the information is justified. The person may accompany his request with a sealed copy of the unredacted document or information.

2. The person seeking to have the information protected from disclosure has the burden of proof to demonstrate that the information sought to be disclosed is entitled to that protection.

3. Information which is the subject of an agreement or a protective order will be provided only to the authority's staff.

4. A person, a party, the legal counsel of a party or the expert designated by a party who:

(a) Violates the procedures of the authority or presiding officer for protecting information;

(b) Fails to obey a protective order issued by the authority or the presiding officer;

(c) Violates the terms or conditions of a protective agreement; or

(d) Violates any other prohibition of the disclosure of information designated as confidential in accordance with section 46 to section 52, inclusive,

is subject to the penalties and civil remedies prescribed in NRS 706.771.

## **Pleadings, Motions and Other Papers**

### **Sec. 53. Captions, amendments and construction of pleadings. [NAC 703.530]**

1. Pleadings before the authority must be styled applications, petitions, complaints, answers, motions and protests.

2. If not otherwise prohibited by law and if substantial rights of the parties will not be prejudiced, the authority will allow any pleading to be amended or corrected or any omission in the pleading to be cured.

3. The authority will and a presiding officer shall liberally construe the pleadings and disregard any defects which do not affect the substantial rights of any party.

### **Sec. 54. Applications. [NAC 703.535]**

1. A pleading requesting a privilege, right or authority from the authority must be styled an "application."

2. An application must set forth:

(a) The full name, mailing address and telephone number of the applicant and full name, mailing address and telephone number of the applicant's authorized representative or attorney, if applicable;

(b) All material facts which the applicant is prepared to prove and upon which the authority may base its decision to grant the request;

(c) Required exhibits and such other exhibits as the applicant deems appropriate;

(d) A request for the order, authorization, permission, certificate, relief or permit desired; and

(e) A reference to the particular statutes or regulations requiring or supporting the requested action.

**Sec. 55. Petitions. [NAC 703.540]**

1. A pleading praying for affirmative relief, other than an application, motion, answer or complaint, must be styled a “petition.”
2. If the subject of any desired relief is not readily apparent or specifically covered by the provisions of this chapter, a petition seeking that relief and stating the reasons relied upon may be filed. The petition will be handled in the same manner as other petitions.
3. If the authority does not grant, deny or set a petition for further proceedings within 90 days after the date on which the petition is received by the authority, the petition shall be deemed denied.

**Sec. 56. Petition to adopt, amend or repeal regulation. [NAC 703.546]**

1. If a petition requests the adoption of a proposed regulation, it must include the full text of the proposed regulation and the reasons for the requested adoption.
2. If a petition requests the amendment or repeal of an existing regulation, it must include:
  - (a) The regulation or that portion of the regulation in question and the suggested amendment; and
  - (b) The reason for the amendment or repeal of the regulation.
3. The authority will convene to consider each petition submitted in accordance with this section and will notify the petitioner within 30 days after the petition is filed of the disposition of the petition.

**Sec. 57. Motions. [NAC 703.550]**

1. Any request for an order by the authority, except for an order to permit intervention or an order to show cause, concerning any matter that has been assigned a docket number but has not been finally decided by the authority must be styled a “motion.”
2. A motion must be in writing unless made during a hearing. If a motion is made during a hearing, the motion may be written or oral. Oral motions must be timely made.
3. The presiding officer may order the parties to file one or more affidavits in support or contravention of a motion which has been made.
4. A motion must include citations of any authorities upon which the motion relies.
5. A written motion must be filed with the authority and served upon all parties of record.
6. The presiding officer may direct that any motion made at a proceeding be reduced to writing, and filed and served in accordance with this section.
7. A motion that involves the final determination of a proceeding, including a motion to dismiss, will be considered by the authority at the time of the final decision and order, unless the presiding officer or authority determines that an expedited ruling would be in the public interest.
8. The presiding officer may rule on any motion made at a hearing which does not constitute a final determination of the proceeding.
9. A written motion other than one made during a proceeding must be served not later than 10 days before the date set for the hearing unless a different time is specified by the presiding officer.

10. Motions filed by different parties of record but involving the same point of law may be set for hearing at the same time.

11. For the purpose of this section, "party of record" includes all persons who have filed petitions for leave to intervene which are pending at the time a motion is to be filed or served.

**Sec. 58. Responses to motions. [NAC 703.555]**

1. Any party of record against whom a motion is directed may file a response to the motion. A response must be in writing unless made during a hearing. If made during a hearing, a response may be written or oral.

2. A written response must be:

(a) Served upon each party of record.

(b) Filed with the authority no later than 7 days after receipt of service of the motion, unless otherwise directed by the presiding officer.

**Sec. 59. Form of pleadings. [NAC 703.560]**

1. Pleadings must:

(a) Be properly titled.

(b) Be signed in ink by each party or an authorized person.

(c) Include the name and address of each party and, if represented, the name, address and telephone number of the party's authorized representative or attorney.

(d) Except an initial pleading, clearly identify the proceeding by title and docket number.

(e) Set forth a clear and concise statement of the matters relied upon as a basis for the action or relief requested and an appropriate prayer.

(f) Be typewritten, printed or reproduced on good quality white paper, which is approximately 8 2 by 11 inches in size. Any exhibit or appendix accompanying the pleading must be folded to this size. Information must be presented on only one side of the paper and must be double spaced, except for footnotes or quotations which are indented. All copies must be clear and permanently legible.

2. A pleading initiating a new proceeding must have space for the docket number.

3. Regardless of any error in the designation of a pleading, the authority will accord the pleading its true status in the proceeding in which it is filed.

4. A signature on the pleading constitutes a representation that:

(a) The person signing the pleading has read the pleadings;

(b) To the best of his knowledge, there are good grounds to support the pleading;

(c) The information in the pleading is true to the best of his knowledge and belief; and

(d) The pleading is not filed solely to delay the proceeding.

5. If a person filing a pleading desires a hearing on the matter, a request for a hearing must be stated in the pleading.

**Sec. 60. Filing. [NAC 703.565]** Except as otherwise provided in this section, the original and nine legible copies of all pleadings must be filed with the authority in its Las Vegas office.

If a written protest is made, only the original is required to be filed. The presiding officer may require the parties to file additional copies if needed.

**Sec. 61. Answers: General requirements. [NAC 703.570]**

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 authority may file an answer with the authority.

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

(a) Be in writing; and

(b) Specifically admit or deny 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.

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 authority or presiding officer directs otherwise.

4. Except as otherwise ordered by the authority, 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, he must file an answer within 15 days after the service of the amendment or correction unless the authority 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. 62. Answers to petitions. [NAC 703.573]** An answer to a petition must:

1. Be in writing;

2. Be written so as to advise the authority and parties of record fully of the nature of the answer;

3. Contain a separate statement and number for each material element of the answer;

4. Be signed by the answering party or, if represented, by his attorney or other authorized representative;

5. Include the full name, address and telephone number of the answering party; and

6. Be filed with the authority within 15 days after service of the petition to which the answer is directed, unless the authority shortens or extends this time.

**[NAC 703.577 not carried over]**

**Sec. 63. Petition to intervene. [NAC 703.580]** Any person who can demonstrate a direct and substantial interest in a proceeding and desires to participate in it as an intervener must file a petition with the authority requesting an order permitting the intervention.

**Sec. 64. Contents of petition to intervene. [NAC 703.585]** A petition for leave to intervene must be in writing and set forth the following:

1. The title and docket number of the proceeding in which leave to intervene is sought;

2. The name and address of the petitioner and, if represented, the name, address and telephone number of his attorney or other authorized representative;

3. A clear and concise statement of the direct and substantial interest of the petitioner in each statutory element before the authority that petitioner seeks to participate;

(a) For the purposes of the statutory elements outlined in NRS 706.151(1)(e) and NRS 706.391(2)(c) & (d), a petitioner will be considered to have a direct and substantial interest in a proceeding where he can show that he is authorized to provide the same service in the same territory as requested by applicant;

4. The manner in which the petitioner will be unreasonably and adversely affected by the proceedings;

5. How petitioner will be prejudiced by the denial of his petition to intervene.

6. A description of the evidence and witnesses the petitioner intends to present in the proceeding; and

7. If affirmative relief is sought, a description of the desired relief and the basis for that relief.

**Sec. 65. Filing of petition to intervene. [NAC 703.590]**

1. A petition for leave to intervene must be filed with the authority within any applicable period set in the public notice published in accordance with section 28.

2. If a petition for leave to intervene is filed after the applicable period, the petition must state a substantial reason for the delay.

**Sec. 66. Approval or denial of petition to intervene. [NAC 703.595]**

1. If a petition for leave to intervene demonstrates that petitioner has a direct and substantial interest in one or more of the statutory elements of the proceeding and the intervention would not unduly broaden the issues, the authority or the presiding officer may grant leave for the petitioner to intervene or otherwise to appear in the proceeding with respect to those elements of the proceedings where a direct and substantial interest is found, subject to such reasonable conditions as may be prescribed by the authority or presiding officer.

2. If it appears during the proceedings that an intervener has no direct or substantial interest in the proceeding and that the public interest does not require his further participation, the authority will or presiding officer shall dismiss the intervener from the proceeding.

**Sec. 67. Limitation on number of interveners. [NAC 703.600]** When two or more interveners have substantially the same interest and positions, the authority or presiding officer may in order to expedite the hearing, limit the number of interveners who will be permitted to cross-examine, make and argue motions or make objections during the course of the hearing.

**Sec. 68. Protest. [NAC 703.605]**

1. Any objection by a person, not a party of record, to an application, petition or other matter must be styled a "protest."

2. A written protest must legibly set forth a clear statement of the matter to which an objection is made.

3. The authority will make available a copy of a written protest to the parties against whom it is directed.

4. Even if a hearing on a written protest is not required by law, the authority will notify the parties of record and hold such a hearing if the public interest will be served.

5. A protest at a hearing may be oral or written.

6. At a hearing, the presiding officer shall allow any protestant to enter an appearance in the proceeding. A protestant who desires to participate as a party of record in a proceeding must file a written petition for leave to intervene unless the presiding officer upon good cause shown permits an oral petition for leave to intervene. A protestant is entitled to participate as a party of record only to the extent that leave to intervene is granted.

**Sec. 69. Service of process. [NAC 703.610]**

1. All documents required to be served on a party by any other party may be served in person or by mail. If the service is by mail, the service is complete when a true copy of the document, properly addressed and stamped, is deposited in the United States mail.

2. After the commencement of a proceeding, a copy of each pleading to be filed with the authority must be served by the pleading party on every other party of record. If a party of record is represented by an authorized representative or an attorney, service must be made on that representative or attorney. Service must be made before or concurrently with the filing of the pleading with the authority.

3. Upon the advance request of another party, a party serving a document shall telephone the requesting party when the document is ready to be served so that it may be accepted personally by the requesting party in lieu of service by mail.

**Sec. 70. Proof of service. [NAC 703.615]** There must appear on all documents required to be served an acknowledgment of receipt of service or the following certificate:

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding (by delivering a copy thereof in person to .....)  
by mailing a copy thereof, properly addressed, with postage prepaid to  
..... Dated at ..... this ..... day of  
....., 19.....

Signature

**Complaints**

**Sec. 71. Disposition of oral complaints. [NAC 703.616]**

1. The authority’s staff shall attempt to resolve informally any oral complaint made by a customer against a motor carrier or broker. If a customer is not satisfied with the informal resolution of his complaint, the staff shall inform him that he has a right to file a written complaint with the authority.

2. The authority’s staff may request the customer to provide a written confirmation of any oral complaint.

**Sec. 72. Written complaints. [NAC 703.521]**

1. A written complaint must:
  - (a) Clearly and concisely state the grounds of the complaint and the facts constituting the alleged wrongful acts or omissions; and
  - (b) Be accompanied by copies of all supporting documents, such as invoices, bills of lading, canceled checks and statements of account.
2. The authority's staff shall maintain a record of each written complaint, including:
  - (a) Each pertinent fact relative to the origin, nature and basis of the complaint;
  - (b) A description of everything the complainant has done or attempted to do in order to resolve the complaint;
  - (c) The response of the utility, carrier or broker to the complaint, with copies of supporting documents, if any; and
  - (d) Any other information the division deems to be relevant to the understanding and resolution of the complaint.
3. The authority's staff shall:
  - (a) Within 10 days after receiving a written complaint, send a letter of acknowledgment to the complainant.
  - (b) Within 20 days after receiving a written complaint, send a copy of it to the motor carrier or broker against which the complaint is made and require the carrier or broker to file a response to the complaint with the authority's staff in accordance with section 73.

**Sec. 73. Response to written complaint. [NAC 703.626]**

1. A carrier or broker against which a complaint is made shall file with the authority its written response to the complaint within 15 days after receiving the complaint unless, for good cause shown, the authority's staff extends the time for responding.
2. The response must include:
  - (a) A statement that the respondent has successfully resolved the complaint; or
  - (b) A detailed admission or denial of each material allegation of the complaint and a full statement of the facts and matters of law relied upon as a defense.
3. The response must:
  - (a) Be signed by the respondent or, if represented, by its attorney or other authorized representative.
  - (b) Include the full name, address and telephone number of the respondent and, if represented, the name, address and telephone number of its attorney or other authorized representative.
4. If the respondent fails to file a response with the authority's staff within the prescribed time, the division shall place the matter before the authority for a determination of probable cause. An unexcused failure of the respondent to respond to the complaint within the prescribed time shall be deemed an admission by it of all relevant facts stated in the complaint.

**Sec. 74. Investigation and recommendation by authority's staff. [NAC 703.631]**

1. When the authority's staff receives a response to a written complaint, it shall examine the complaint, the response and any other information it has obtained which is necessary for the resolution of the complaint.

2. After completing an investigation of the matter set forth in the complaint, the authority's staff shall notify all parties of the results of the investigation and shall recommend any actions which the parties should take in order to resolve the complaint.

**Sec. 75. Transmittal of unresolved complaints to authority. [NAC 703.636]**

1. If the authority's staff cannot resolve a complaint, either because it determines that the complaint cannot be resolved or the complainant is not satisfied with the staff's recommendation, it shall inform all parties that the complaint has been transmitted to the authority for review.

2. In addition to transmitting the complaint, the results of its investigation and its recommendation to the authority, the authority's staff shall transmit:

- (a) The reasons for the complaint;
- (b) The position taken by the respondent; and
- (c) Any interim action taken by the authority's staff.

The authority's staff shall send this additional information to the complainant and respondent.

**Sec. 76. Dismissal of complaint. [NAC 703.641]** If the authority determines that no probable cause exists for a complaint received by the authority's staff or if the complaint has been settled and the authority has received notice of the settlement, the authority will dismiss the complaint. A copy of the authority's minute entry showing its dismissal of the complaint and a short statement of its reasons for dismissal will be served upon the complainant and respondent.

**Sec. 77. Public hearing; interim relief. [NAC 703.646]** If the authority determines that probable cause exists for a complaint received by the authority's staff, it will:

- 1. Set a date for a public hearing on the complaint.
- 2. Order appropriate interim relief. If the complaint relates to bills or deposits, the authority, without hearing or formal order and in the absence of unusual circumstances, will, upon such terms and conditions as it deems appropriate, forbid discontinuance of service or the issuance of any notice of discontinuance during its investigation of the complaint.

**Sec. 78. Complaints investigated directly by authority. [NAC 703.651]**

1. The authority will directly investigate any complaint other than one filed by a customer pursuant to section 72.

2. A complaint to be investigated directly by the authority must be in writing and contain:

- (a) The name and address of the complainant and, if represented, the name, address and telephone number of his attorney or other authorized representative.

- (b) The name of the utility, motor carrier or broker against which the complaint is made.
- (c) A complete statement of the grounds for the complaint, including whenever possible, reference to each statute or regulation which is alleged to have been violated.

- (d) The date of each act or omission complained of.

- (e) The nature of the relief sought.

The complaint must be signed by the complainant or, if represented, by his attorney or other authorized representative.

3. Two or more grounds of complaint concerning the same subject may be included in one complaint, but the grounds must be separately stated and numbered. Two or more complainants may join in one complaint if their respective causes of action are against the same respondent and deal with substantially the same alleged violation.

4. The complainant shall serve a copy of the complaint on the respondent. Proof of service must be made by affidavit signed by the complainant or, if represented, by his attorney or other authorized representative.

## **Hearings**

### **Sec. 79. Prehearing conference. [NAC 703.655]**

1. If a proceeding appears to involve complex or multiple issues, a presiding officer may hold a prehearing conference to accomplish one or more of the following purposes:

- (a) Formulate or simplify the issues involved in the proceeding.
- (b) Obtain admissions of fact or any stipulation of the parties.
- (c) Arrange for the exchange of proposed exhibits or prepared expert testimony.
- (d) Identify the witnesses and the subject matter of their expected testimony and limit the number of witnesses, if necessary.
- (e) Rule on any pending procedural motions, motions for discovery or motions for protective orders.
- (f) Establish a schedule for the completion of discovery.
- (g) Establish a schedule for the submission of a statement of issues and positions by all parties to a hearing on a change in rates by a public utility.
- (h) Establish any other procedure which may expedite the orderly conduct and disposition of the proceedings.

2. Notice of any prehearing conference will be provided to all parties of record. Unless otherwise ordered for good cause shown, the failure of a party to attend a prehearing conference constitutes a waiver of any objection to the agreements reached or rulings made at the conference.

3. The action taken and the agreements made at a prehearing conference:

- (a) Must be made a part of the record.
- (b) Control the course of subsequent proceedings unless modified at the hearing by the presiding officer.
- (c) Are binding upon all parties and persons who subsequently become parties to the proceeding.

4. In any proceeding the presiding officer may call all the parties together for a conference before the taking of testimony or may recess the hearing for such a conference to carry out the intent of this section. The presiding officer will state on the record the results of such a conference.

### **Sec. 80. Notice. [NAC 703.660]**

1. In addition to complying with the requirements of NRS 233B.121 for a notice of hearing in a contested case, the authority will include the words “notice of hearing” in any such notice.

2. The deputy commissioner shall file or cause to be filed an affidavit of publication with the authority.

3. The authority will give such a notice by publication in the following manner:

(a) The notice will be published in an advertisement of at least 1 column inch by 3 inches, with a border on all sides, in newspapers selected as follows:

(1) If the deputy commissioner determines that the subject matter of the hearing will have a statewide effect, the notice will be published at least once in four or more newspapers of general circulation, which are published in this state, no two of which are published in the same county.

(2) If the deputy commissioner determines that the subject matter of the hearing will have an effect on a limited number of counties only, the notice will be published once in a newspaper of general circulation published in each county where affected members of the public reside. If there is no newspaper published in a county where affected members of the public reside, the notice will be published in a county adjacent to the county.

4. The authority will serve notice of a hearing on the parties of record and publish the notice at least 10 days before the time set for the hearing.

5. A copy of the notice will be posted at the authority's Las Vegas office at least 3 days before the date set for the hearing.

**[NAC 703.662, .665 & 667 not carried over]**

**Sec. 81. Continuances. [NAC 703.670]** The authority or presiding officer may, for good cause, either before or during a hearing, grant a continuance of the hearing for the conveniences of the parties or the authority.

**Sec. 82. Failure of party to appear or respond. [NAC 703.675]**

1. If an applicant, petitioner, complainant or intervenor fails to appear at the time and place set for hearing, the authority may dismiss the petition, application, complaint, or intervention with or without prejudice, or may, at the discretion of the authority, recess the hearing to a future date to be set by the authority to enable the applicant, petitioner or complainant to attend.

2. If an applicant, petitioner, complaintant, or intervenor fails to respond to a data request from the authority's staff within 10 working days of its issuance, the Manager of Transportation shall move for dismissal of the application, petition, complaint or intervention at the next regular agenda meeting of the authority.

**[NAC 703.680 not carried over]**

**Sec. 83. Testimony under oath. [NAC 703.685]** All testimony to be considered by the authority in a formal hearing must be sworn testimony except for matters of which official notice is taken or matters entered by stipulation. Before testifying, each witness shall declare, under oath or affirmation, that the testimony he is to give at the hearing will be the truth, the whole truth and nothing but the truth.

**Sec. 84. Authority of presiding officer. [NAC 703.690]**

1. The presiding officer shall:
  - (a) Call a hearing to order and take the appearances of the parties who are present.
  - (b) Hold appropriate conferences before or during the hearing.
  - (c) Receive and rule on the admissibility of evidence.
  - (d) Rule on the admissibility of amendments to the pleadings.
  - (e) Act upon any pending motions or petitions which do not involve a final determination of the proceeding.
  - (f) Make proposed opinions, findings and conclusions of law.
  - (g) Issue appropriate interim orders.
  - (h) Recess the hearing as required.
  - (i) Rule on all procedural matters.
  - (j) Set reasonable limits of time for the presentation of oral testimony.
2. At the discretion of the presiding officer, the parties may make opening statements.

**[NAC 703.692 not carried over]**

**Sec. 85. Order of proceeding. [NAC 703.695]**

1. Applicants, petitioners or complainants may present their evidence first at a hearing. Then any parties of record opposing the application, petition or complaint may present their evidence. The presiding officer shall designate the stage of the proceeding at which each intervener, protestant or member of the authority's staff may be heard. Evidence must be received in the following order unless the presiding officer determines that a special circumstance requires a different order:

- (a) Upon an application or petition:
  - (1) Applicant or petitioner;
  - (2) Authority's staff;
  - (3) Interveners; and
  - (4) Rebuttal by the applicant or petitioner.
- (b) Upon a complaint:
  - (1) Complainant;
  - (2) Respondent;
  - (3) Authority's staff;
  - (4) Interveners; and
  - (5) Rebuttal by complainant.
- (c) Upon a complaint by the Authority or an order to show cause:
  - (1) Authority's staff;
  - (2) Respondent;
  - (3) Interveners; and
  - (4) Rebuttal by authority's staff.

2. Witnesses may be cross-examined by the opposing parties granted intervenor status on the issues testified to by the witness, the authority, the Attorney General, administrative assistants and the authority's staff.

3. If there is more than one applicant, petitioner or complainant, the witnesses of all applicants, petitioners or complainants may present direct testimony on an issue before any of

these witnesses may be cross-examined on that issue, unless otherwise ordered by the presiding officer.

4. If two or more matters are set for hearing at the same time and place, the matter having the lowest docket number will be heard first, unless the presiding officer directs a different order for the convenience of the parties.

**Sec. 86. Hearing on proposed regulation. [NAC 703.697]** At a hearing on a proposed regulation, the presiding officer may permit the questioning of those persons submitting statements in order to clarify testimony. The cross-examination of persons who testify is not permitted. The period for comment may be extended by the authority so that written comments on statements of other persons which are offered at the hearing may be submitted to the authority.

**Sec. 87. Order for appearance of witness or production of document. [NAC 703.700]**

1. A request by a party of record for an order for the appearance of a witness at any designated place of hearing or for the production of a book, paper or document must be made in the form of a written motion filed with the authority or presiding officer.

2. A motion for an order to compel the production of a book, paper or document must set forth the reasons which support the issuance of the order and must identify, as clearly as possible, the book, paper or document desired.

3. If the motion is granted, the authority will issue the order or the presiding officer shall issue the order on behalf of the authority. Where appropriate, the issuance of the order may be conditioned upon an advancement by the moving party of the reasonable cost of the production of books, papers or documents.

4. The authority will or the presiding officer shall, upon its or his own initiative or upon a written request by the party to whom the order is directed, quash or modify the order if it is determined to be unreasonable or oppressive.

5. The authority or presiding officer may, upon its or his own initiative issue an order requiring the attendance and testimony of witnesses and the production of a book, paper, document or other tangible thing.

**Sec. 88. Objections concerning admissibility of evidence. [NAC 703.705]**

1. An objection to the admissibility of evidence may be made by any party of record, and the objection must be ruled on by the presiding officer. When an objection is made to the admission or exclusion of evidence, the grounds relied upon must be stated briefly. The presiding officer shall provide an opportunity for a party of record to respond to an objection raised by any other party regarding the admissibility of evidence. The responses must be brief and state the specific grounds relied upon.

2. An offer of proof for the record must consist of a statement of the substance of the evidence to which an objection has been sustained.

**Sec. 89. Prepared testimony. [NAC 703.710]**

1. At the discretion of the presiding officer, a party to a proceeding shall submit a copy of prepared testimony and accompanying exhibits to be presented at any hearing to the authority and to each party of record. If the presiding officer directs any party to submit prepared

testimony and accompanying exhibits, the presiding officer shall direct every party of record desiring to present direct testimony at the hearing to submit prepared testimony and accompanying exhibits to the authority and each party of record to the proceeding before the date of the hearing.

2. An application filed for an adjustment in rates must be accompanied by the applicant's prepared testimony at the time of filing. If the presiding officer so orders, additional copies of the applicant's prepared testimony must be provided.

3. After delivery of the prepared testimony to the authority, amendments to it may be made upon approval of the authority or presiding officer.

4. Unless otherwise directed by the presiding officer, prepared testimony must be supported by a signed affirmation by the witness and submitted to the authority as an exhibit. If circumstances so require, prepared testimony may be read into the record by the witness upon direct examination. The admissibility of prepared testimony will be determined according to the provisions of this chapter governing oral testimony.

#### **Sec. 90. Documentary evidence. [NAC 703.715]**

1. An exhibit must be limited in size to 8 1/2 by 11 inches when folded, unless otherwise permitted by the presiding officer. All portions of a proposed exhibit must be stapled. No exhibit will be accepted which consists of unstapled pages. A copy of each documentary exhibit must be furnished to each party of record, and 10 copies must be furnished to the authority. A copy must be submitted to the court reporter or transcriber. If relevant evidence is included in a written or printed statement, book or document of any kind, containing other matter not relevant and not intended to be put in evidence, the statement, book or document containing that other matter may not be received or admitted in whole. Counsel or other parties offering the evidence or exhibit shall present, in convenient and proper form for filing, a copy of the relevant portions, or at the discretion of the presiding officer, read these portions into the record. Any documentary evidence offered, whether in the form of an exhibit or introduced by reference, is subject to appropriate and timely objection.

2. If documents are numerous, such as freight bills or bills of lading, and a party desires to offer into evidence more than a limited number of these documents as typical of the others, an orderly abstract of relevant data contained in these documents may be prepared and offered as an exhibit. Other parties of record may examine both the abstract and the source document.

3. In a proceeding involving detailed accounting exhibits, the presiding officer shall require each party to file with him and to serve on each party of record a copy of these exhibits within a specified time before the hearing to enable the parties of record to study the exhibits and to prepare cross-examination with reference to them. An amendment to an exhibit may be made after the exhibit has been filed with the presiding officer if it does not prejudice the rights of any party or if it corrects a clerical or mathematical error.

#### **Sec. 91. Resolutions. [NAC 703.720]**

1. A properly authenticated resolution of a federal or state agency or division, the governing body of a city, town, county, regional or other municipal corporation or of a chamber of commerce, board of trade, labor union, corporation, commercial, mercantile, agricultural or manufacturing society or other civic organization must be received into evidence

if offered by the president, secretary or other proper representative of the corporation or organization.

2. The resolution will be received subject to rebuttal by adversely affected parties of record as to either the authenticity of the resolution or the circumstances surrounding its procurement. Recitals of fact contained in a resolution will only be received for the limited purpose of showing the expression of the official action of the resolving body on the matters under consideration in the proceeding.

**Sec. 92. Additional evidence. [NAC 703.725]**

1. At the hearing, the presiding officer may order the presentation of further evidence on any issue. Upon agreement of the parties, the presiding officer shall authorize the filing of specific documentary evidence as a part of the record within a fixed time after submission of the evidence. The presiding officer shall reserve exhibit numbers for exhibits which are filed late.

2. After the hearing and before the entry of a final decision and order, the authority or presiding officer may issue an order requesting the submission of additional exhibits. Such an order must:

- (a) Specifically delineate the subject matter to be addressed.
- (b) Specify the date by which the exhibits must be submitted.
- (c) Require service of the exhibits upon all parties of record.

A party of record may respond to or comment upon such exhibits.

**[NAC 703.730 not carried over]**

**Sec. 93. Rulings by presiding officer. [NAC 703.735]**

1. All rulings made by the presiding officer regarding the admissibility of evidence are subject to review by the authority. Any pending petition or motion that involves a final determination of the proceeding must be referred to the authority for determination.

2. In extraordinary circumstances, when a prompt decision by the authority is necessary to promote substantial justice, the presiding officer shall refer the matter to the authority for determination and may recess the hearing pending its determination.

**Sec. 94. Consolidation. [NAC 703.740]**

1. The authority may consolidate two or more dockets in any one hearing when it appears that the issues are substantially the same and that the rights of the parties will not be prejudiced by a consolidated hearing.

2. At a consolidated hearing the presiding officer will determine the order in which the parties introduce their evidence and the general procedure to be followed during the course of the consolidated proceeding.

3. The presiding officer will apportion the costs of the hearing among the parties in a manner not contrary to statute.

4. Unless the authority orders otherwise, the deputy commissioner will place the same date of issuance and the same effective date, if applicable, on all orders made by the authority in relation to a consolidated hearing.

[NAC 703.745 not carried over]

**Sec. 95. Stipulations. [NAC 703.750]**

1. With the approval of the presiding officer, the parties may stipulate as to any fact in issue, either by written stipulation introduced in evidence as an exhibit or by an oral statement made upon the record. This stipulation is binding only upon the parties so stipulating and is not binding upon the authority.

2. The stipulation may be considered by the authority as evidence at the hearing. The authority or presiding officer may require proof of the facts stipulated to by independent evidence, notwithstanding the stipulation of the parties. A stipulation without additional proof is not binding on the authority in its determination of the matter.

**Sec. 96. Interim order. [NAC 703.752]** The authority or the presiding officer may, in the course of a proceeding and before entering a decision or a recommended decision, issue an appropriate written interim order. An interim order is not subject to exceptions or petitions for rehearing, reconsideration or reargument, but any part of record aggrieved by the interim order may file a written motion to set aside, stay or modify the order.

**Sec. 97. Official notice. [NAC 703.755]** The authority or presiding officer may take official notice of the following matters:

1. Rules, regulations, official reports, decisions and orders of the authority and any other agency of the state.
2. Contents of decisions, orders, certificates and permits issued by the authority.
3. Matters of common knowledge and technical or scientific facts of established character.
4. Official documents, if pertinent and properly introduced into the record of formal proceedings by reference. A proper and definite reference to a document must be made by the party offering the document, and the document must be generally circulated to each party of record.

**Sec. 98. Briefs. [NAC 703.760]** In any hearing, the presiding officer may order briefs to be filed within a reasonable time. The original and 10 copies of each brief must be filed with the authority, must contain all legal authority cited therein as exhibits, and must be accompanied by an acknowledgment of or an affidavit showing service on each party of record.

**Sec. 99. Oral arguments. [NAC 703.765]** The authority may, following the filing of briefs or upon contested motions, set the matter for oral argument upon 10 days' notice to each party of record, unless the authority considers a shorter time advisable.

**Sec. 100. Decision by authority. [NAC 703.770]** Unless otherwise specifically ordered, a matter stands submitted for decision by the authority at the close of the hearing.

**Sec. 101. Reopening proceedings to receive additional evidence. [NAC 703.775]** At any time after the conclusion of a hearing and before the issuance of a final order, the authority or

the presiding officer, on its or his own motion, may reopen the proceedings for the taking of additional evidence.

**Sec. 102. Proposed findings of fact and conclusions of law. [NAC 703.780]**

1. The presiding officer may require any party of record to file proposed findings of fact and conclusions of law at the close of the proceeding. The presiding officer will fix the period within which these proposed findings and conclusions must be filed. No decision, report or recommended order may be made until after the expiration of this period.

2. Each proposed finding of fact and conclusion of law must be clearly and concisely stated and numbered. Each proposed finding of fact must specifically show by appropriate references to the transcript, the testimony which supports the statement.

3. An original and 10 copies of proposed findings of fact and conclusions of law, accompanied by a certificate of service, must be filed by each party with the authority, and one copy must be served upon each party of record.

4. Any party of record may petition the authority for an extension of time in which to file proposed findings of fact and conclusions of law.

**[NAC 703.785 not carried over]**

**Sec. 103. Date of issuance and effective date of order. [NAC 703.790]**

1. The date of the issuance of an order is the day the deputy commissioner signs and verifies the order and affixes the seal of the authority on the order. The deputy commissioner will mail or deliver copies of the order to the parties of record no later than one day following the date of issuance. The date of issuance of an order may or may not be the day of decision by the authority. The deputy commissioner will clearly indicate on each order the date of its issuance.

2. Unless otherwise specifically provided in the order, an order of the authority is effective as of the date of its issuance.

**[NAC 703.801 not carried over]**

**Sec. 104. Copies of transcripts. [NAC 703.820]** Any party may obtain a copy of the transcript of a hearing before the authority from the official reporter upon payment of the fees fixed therefor. The original and one copy of each transcript must be provided to the authority by the initiating party within 15 business days after the close of the hearing unless otherwise ordered by the presiding officer.

### **Declaratory Orders and Advisory Opinions**

**Sec. 105. Petition; hearings. [NAC 703.825]**

1. Any interested person may petition the authority for a declaratory order or an advisory opinion as to the applicability of any statutory provision or any regulation or decision of the authority.

2. Hearings will be held by the authority, if needed, to obtain information necessary or useful in formulating a declaratory order or advisory opinion.

### **Administrative Fines**

**Sec. 106. Definitions. [NAC 703.850]** As used in section 106 to section 114, inclusive, unless the context otherwise requires:

1. “Administrative proceeding” means a proceeding to impose an administrative fine pursuant to subsection 2 of NRS 706.771.
2. “Hearing officer” means a person designated pursuant to subsection 3 of NRS 703.110 to conduct an administrative proceeding.
3. “Respondent” means a person against whom an administrative proceeding is initiated.

**Sec. 107. Administrative proceeding: Initiation and termination by authority’s staff; conduct; applicable regulations; intervention. [NAC 703.855]**

1. An administrative proceeding must be initiated by the authority’s staff as provided in section 108. The authority’s staff may terminate an administrative proceeding at any time before hearing without prejudice to the initiation of another administrative proceeding based upon the same set of facts.
2. An administrative proceeding must be conducted pursuant to the provisions of chapter 233B of NRS and those provisions of chapter 706 of NRS which do not conflict with the provisions set forth in chapter 233B of NRS regarding notice to parties and the opportunity of parties to be heard.
3. The provisions of section 38 to section 105, inclusive, apply to an administrative proceeding, as if the hearing officer were the authority or a presiding officer, to the extent that those provisions do not conflict with the provisions of section 106 to section 114, inclusive.
4. No person may intervene in an administrative proceeding.

**Sec. 108. Contents, service and filing of complaint; answer to complaint. [NAC 703.860]**

1. The authority’s staff may initiate an administrative proceeding by:
  - (a) Serving a copy of a complaint upon the respondent by personal delivery or by mailing by certified mail, return receipt requested, to the last known address of the respondent’s business or residence; and
  - (b) Filing the complaint with the authority.
2. The complaint must be signed by a member of the authority’s staff and contain:
  - (a) The name of the respondent;
  - (b) A concise statement of the facts upon which the imposition of a fine is allegedly grounded;
  - (c) The amount of the fine requested; and
  - (d) Any other matter required by law.
3. The respondent may file with the authority an answer to the complaint no later than 15 days after it is served.

**Sec. 109. Settlement of proceeding. [NAC 703.865]**

1. The authority's staff may enter into an agreement with a respondent for the settlement of an administrative proceeding. The agreement must be signed by the authority's staff and the respondent, and state that the respondent consents to the imposition of a fine in a specific amount.

2. Upon entering into such an agreement:

(a) The authority's staff shall submit the agreement to the authority; and

(b) The respondent shall deposit with the authority a cashier's check or money order, payable to the authority, for the amount of the agreed fine. The authority will maintain the amount in an interest-bearing trust account until it enters a final order in the administrative proceeding.

3. The agreement is not effective unless approved by the authority. If the authority approves of the agreement, it will enter an appropriate final order. If the authority does not approve of the agreement, the administrative proceeding must be set for a hearing.

4. Upon termination of the administrative proceeding, the authority will return to the respondent the amount deposited pursuant to subsection 2 which exceeds the amount of any fine imposed, together with the accrued interest on that unused amount.

**Sec. 110. Powers and duties of hearing officer. [NAC 703.870]**

1. A hearing officer shall:

(a) Subscribe to the constitutional oath of office before exercising any of the powers or performing any of the duties of his office.

(b) Conduct a fair and impartial hearing in accordance with the law.

(c) Conduct the entire hearing on the record and require each party or his counsel to identify himself before he presents evidence.

(d) Establish the order of presentation of the evidence by each party.

(e) Ensure that the hearing proceeds with reasonable diligence and the least delay practicable.

(f) Prepare a proposed decision for review by the authority.

(g) Deliver the record of the hearing and the proposed decision to the authority.

2. If not otherwise prohibited by law and if substantial rights of the parties will not be prejudiced, a hearing officer may allow amendment of the complaint and answer before conducting a hearing.

**Sec. 111. Appeal of procedural ruling by hearing officer. [NAC 703.875]**

1. Any party to an administrative proceeding conducted by a hearing officer may appeal a ruling of the hearing officer on any procedural matter to the authority by filing a request for further consideration with the hearing officer within 15 days after the ruling is made, or within the period prescribed by the hearing officer. The request must include grounds for review of the ruling by the authority.

2. The hearing officer shall transmit:

(a) The request for further consideration and any response to the request;

(b) His ruling on the procedural matter; and

(c) A memorandum which explains those parts of his ruling which are the subject of the appeal,  
to the authority no later than the time he delivers the proposed decision pursuant to section 110.

3. Except as otherwise provided in subsection 4, the authority will enter a decision on the appeal at the same time it rules upon the proposed decision of the hearing officer received pursuant to section 110.

4. If the hearing officer finds that a ruling on the appeal is necessary to prevent detriment to the public interest or irreparable harm to any person, the authority may enter a decision on the appeal before it rules on the proposed decision of the hearing officer received pursuant to section 110.

**Sec. 112. Action by authority. [NAC 703.880]**

1. The authority will review the decision of a hearing officer and enter a final order affirming, modifying or setting aside the decision.

2. If a respondent fails to appear at the time and place set for an administrative proceeding, the authority may impose a fine for the violations alleged in the complaint.

3. In determining the amount of a fine to be imposed pursuant to an administrative proceeding, the authority may consider:

(a) The seriousness of the violations alleged in the complaint which were demonstrated to have been committed by the respondent;

(b) Any hazard to the health or safety of the public resulting from those violations;

(c) Any economic benefit received by the respondent as a result of those violations;

(d) Any mitigation or aggravation by the respondent of the effects of those violations;

(e) The extent to which the respondent demonstrates his good faith;

(f) Any previous history of violations by the respondent;

(g) The amount necessary to deter future violations; and

(h) Any other appropriate matter.

**Sec. 113. Payment of fine. [NAC 703.885]** A fine imposed pursuant to an administrative proceeding is due and payable within 20 days after the final order of the authority imposing the fine.

**Sec. 114. Remedy not exclusive. [NAC 703.890]** The provisions of section 106 to section 114, inclusive, do not preclude the commencement or pursuit of any additional remedies for the authority of the acts upon which an administrative proceeding is based.