

LCB File No. R128-98

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

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

In re proposed rulemaking to amend NAC
Chapter 704 to add standards for review of
mergers, acquisitions or changes in control
of public utilities (NRS 704.329).

Docket No. 98-5001

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NOTICE OF WORKSHOP AND
NOTICE OF HEARING FOR THE ADOPTION OF REGULATIONS
OF THE PUBLIC UTILITIES COMMISSION OF NEVADA

The Public Utilities Commission of Nevada ("Commission") will hold a workshop at 10:00 a.m. on Wednesday, July 29, 1998, at the office of the Commission, 1150 East William Street, Carson City, Nevada 89701. A public hearing will be held at 1:00 p.m. on Wednesday, July 29, 1998, at the same location. The purpose of the workshop and hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to Chapter 704 of the Nevada Administrative Code ("NAC").

The proposed regulation associated with this notice concerns utilities which are engaged in the provision of energy services and persons seeking to merge with, acquire, or otherwise obtain control of such utilities. The Commission intends to consider regulations which will pertain to providers of telecommunication services at a later date. Further notices and orders concerning energy utilities will not be mailed to providers of telecommunication services unless those entities file written comments or inform the Commission in writing that they wish to remain on the service

list for this docket to receive notices and orders concerning energy utilities.

The following information is provided pursuant to the requirements of NRS 233B.060 and 233B.0603:

At an agenda meeting held on May 14, 1998, the Commission voted to open Docket No. 98-5001 to consider promulgating regulations which would constitute standards for the Commission's review of mergers, acquisitions, or changes in control of public utilities. Pursuant to NRS 704.329, the Commission must consider the effect of mergers, acquisitions, or changes in control of a public utility doing business in the State of Nevada and must determine whether the proposed transaction is in the public interest. Pursuant to this statutory requirement, this proposed regulation is intended to establish the contents for applications filed pursuant to NRS 704.329 and to establish terms under which such transactions may be approved. The proposed regulation is available upon request from the Commission.

The estimated economic effect of this proposed regulation cannot be quantified at this time. The Commission does not envision that the proposed regulation will result in increased costs associated with enforcement. This proposed regulation does not overlap or duplicate any regulations of other state or local governmental agencies. This proposed regulation does not establish any new fees or increase any existing fees.

The provisions of the proposed regulation potentially affect all public utilities engaged in the provision of energy services and all persons seeking to merge with, acquire through a subsidiary or affiliate, or otherwise directly or indirectly obtain control of a public utility doing business in this state or an entity that holds a controlling interest in a public utility, except as limited by NRS 704.329(4). At this time, the Commission does not anticipate adverse economic effects on the entities affected by the regulation, either immediate or long-term, to result from the regulation. No adverse economic effects on the public, either immediate or long-term, are expected at this time. Beneficial economic effects on the entities affected by these regulations, both immediate and long-term, may include increased awareness of any efficiencies to be gained

by the proposed transaction. Beneficial economic effects which may inure to the public include the potential for increased efficiency on the part of providers of energy services and the possibility that transactions will not have anti-competitive effects.

Persons wishing to comment upon the proposed action of the Commission may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Secretary of the Public Utilities Commission of Nevada, 1150 East William Street, Carson City, Nevada 89701, or the Sawyer Office Building, 555 East Washington Avenue, Suite 4500, Las Vegas, Nevada 89101. Written submissions must be received by the Commission on or before Friday, July 24, 1998. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Commission may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation 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 regulation to be adopted will be available at the Public Utilities Commission of Nevada, 1150 East William Street, Carson City, Nevada 89701, and the Sawyer Office Building, 555 East Washington Avenue, Suite 4500, Las Vegas, Nevada, 89101 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 notice 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.state.nv.us>. Copies of this notice and the proposed 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 Commission, 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 reasons for overruling the consideration urged against its adoption.

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

By the Commission,

JEANNE REYNOLDS, Commission Secretary

Dated: Carson City, Nevada

(SEAL) _____

LCB File No. R128-98

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

PUCN Docket No. 98-5001

LCB File No. _____

Authority: NRS 703.025, 704.329

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as Sections 2 to 9, inclusive, of this regulation.

Section 2. As used in sections 2 to 9, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in Sections 4 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.

Section 3. Sections 2 to 9, inclusive, of this regulation apply to mergers, acquisitions, or changes in control of energy utilities for which approval by the commission is required pursuant to NRS 704.329.

Section 4. “Applicant” means any public utility or person seeking to merge with, acquire through a subsidiary or affiliate, or otherwise directly or indirectly obtain control of a public utility doing business in this state or an entity that holds a controlling interest in such a public utility for which approval by the commission is required pursuant to NRS 704.329.

Section 5. “Energy utility” means a public utility which is engaged in the provision of

energy services in any form.

Section 6. “Transaction” means a merger, acquisition, or change in control which requires approval by the commission pursuant to NRS 704.329.

Section 7. Any person who seeks to merge with, acquire through a subsidiary or affiliate, or otherwise directly or indirectly obtain control of an energy utility doing business in this state or an entity that holds a controlling interest in an energy utility, for which approval by the commission is required pursuant to NRS 704.329, must file an application which comports with the requirements of Section 8 of this regulation.

Section 8. An application filed pursuant to NRS 704.329 and Section 7 of this regulation shall include:

1. The name, address, and telephone number of the applicants;
2. A description of the applicants' business activities and corporate affiliations;
3. The number of jurisdictional customers of the energy utility or utilities sorted by class;
4. A general description of all jurisdictional facilities owned, operated, or controlled by the applicants or their parent companies, subsidiaries, or affiliates;
5. Organizational charts which show the:
 - (a) current corporate structure of the applicants prior to consummation of the proposed transaction; and
 - (b) planned corporate structure of the surviving entity or entities, as

appropriate, following completion of the proposed transaction;

6. The identity of common officers and directors of parties to the proposed transaction;
7. An executed copy of the transaction for which authorization is sought;
8. In the format for a tariff, the current rates of the energy utility or utilities and the rates proposed to be charged following completion of the transaction;
9. Any information or data which demonstrates why approval of the proposed transaction is in the public interest;
10. If the proposed transaction involves the disposition of physical facilities, maps which show such disposition following completion of the proposed transaction;
11. If approval from any other municipal, state, or federal regulatory body is required, the status of all required applications for approval and, if applicable, a copy of all orders which constitute final rulings on the merits issued by such bodies;
12. An assessment of whether the proposed transaction will result in adverse competitive effects;
13. An assessment of whether the proposed transaction will result in gains in efficiency;
14. A description of the manner in which and extent to which customers and shareholders may be affected by the proposed transaction;
15. A description of the geographic areas affected by the proposed transaction;
16. The effect the proposed transaction is expected to have on the utility's transmission capability;
17. Any actions the applicants intend to take to mitigate or remedy the effects of market

power;

18. If the parties to the proposed transaction are not interconnected, an interconnection study, including an economic analysis of a potential interconnection;
19. An analysis of the markets to be served following completion of the proposed transaction, which analysis shall include:
 - (a) identification of the relevant products and services sold by the parties to the proposed transaction;
 - (b) identification of the present and future customers who may be affected by the proposed transaction;
 - (c) identification of all customers' potential suppliers, who must be able to reach their customers physically and economically; and
 - (d) a calculation of the market concentration statistics in each market to be served by the new entity.
20. An analysis of the impact on customers, including appropriate measures to protect current rates, which may be accomplished by:
 - (a) a general hold-harmless provision, which shall consist of a commitment from the applicants that they will protect customers from any adverse effects on rates for a significant period of time, and which must be enforceable and administratively manageable;
 - (b) a freeze on rates whereby the applicants agree to freeze their rates for customers under certain tariffs for a significant period of time; or
 - (c) a reduction in rates whereby the applicants agree to file an application to reduce rates for a significant period of time for their customers.

21. Any additional information, data, analyses, or studies which consider the effect of the proposed transaction on competition in the energy utility markets; and
22. Any other information which the applicants consider relevant to the commission's consideration of the proposed transaction.

Section 9. The commission may impose conditions on approval of a transaction as the public interest may require. If, pursuant to the analysis undertaken by the applicants, the proposed transaction does not mitigate anti-competitive problems in the markets to be served, the commission may impose conditions on its approval to mitigate such problems. The commission will fashion remedies to mitigate such problems if it finds that the remedies proposed by the applicants are inadequate.