

LCB File No. R044-99

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

In re proposed rulemaking to adopt “fresh look)
regulations for term contracts issued by local) Docket No. 98-12020
exchange companies.)

**NOTICE RESCHEDULING HEARING FOR
THE ADOPTION OF REGULATIONS OF THE
PUBLIC UTILITES COMMISSION OF NEVADA**

The Public Utilities Commission of Nevada (“Commission”) will hold a **public hearing at 9:00 a.m. on Monday, July 26, 1999** in Hearing Room A at the office of the Commission, 1150 East William Street, Carson City, Nevada 89701. This hearing was originally scheduled for July 1, 1999, but for the convenience of the Commission, it has to be rescheduled. If necessary, this hearing will continue from day to day. At this time, the Commission has scheduled only July 26, 1999 for this hearing. The purpose of the hearing is to receive comments from all interested person regarding the adoption of regulations that pertain to Chapter 704 of the Nevada Administrative Code (“NAC”). Any current or proposed NRS and NAC provision relating to telecommunications services may also be discussed at the hearing.

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

The Commission proposes to adopt “fresh look” regulations for all term contracts issued by incumbent local exchange companies. The proposed regulations are needed to encourage and enhance a competitive telecommunications market. The purpose of the proposed regulations is to require that customers be given a “fresh look” to obtain competitive alternative services without paying contract termination penalties.

The proposed regulations potentially affect local exchange carriers within the State of Nevada, as well as those customers with term contracts. At this time, the Commission cannot quantify any adverse economic effects on the affected entities, either immediate or long-term, which may result from the regulations. No adverse economic effects, either immediate or long-term, are expected at this time to inure to the public. The entities affected by these regulations

and/or the public may experience beneficial economic effects, both immediate and long-term, which cannot be quantified at this time, as a result of the proposed regulations.

The Commission does not envision that the proposed regulations will result in increased costs associated with enforcement. These proposed regulations do not overlap or duplicate any regulations of other state or local governmental agencies. The proposed regulations do establish the fee an Incumbent Local Exchange Carrier may charge customers for terminating an eligible contract under the proposed regulations.

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, at 1150 East William Street, Carson City, Nevada 89701, or at the Sawyer Building, 555 East Washington Avenue, Suite 4500, Las Vegas, Nevada 89101. Written submissions must be received by the Commission **on or before Monday, July 19, 1999**. 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 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 Commission's offices, 1150 East William Street, Carson City, Nevada 89701 and the Sawyer Building, 555 East Washington Avenue, Suite 4500, Las Vegas, Nevada 89101. In all counties in which an office of the Commission is not maintained, a copy of this notice and the regulations to be adopted will also be available for public inspection and copying at the main public library during business hours. This notice and the text of the proposed regulations 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 regulations 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 sent to all persons on the Commission's mailing list for administrative regulations and posted at the county courthouses in Carson City, Reno, and Las Vegas.

LCB File No. R044-99

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

(Version for hearing July 26, 1999)

PUCN Docket No. 98-12020 (Fresh Look rule)

AUTHORITY: NRS 703.025, 704.040, and 704.120

Section 1. Chapter 704 of the NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 20, inclusive, of this regulation.

Sec. 2. As used in sections 3 to 20, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this regulation, have the meanings ascribed to them in those sections.

Sec. 3. “Incumbent Local Exchange Carrier (ILEC)” means the provider of last resort as defined in NAC 704.00876 serving the market under which fresh look is sought. Provided, however, this Rule shall only apply to an ILEC with more than twenty five thousand (25,000) total access lines in Nevada that has an interconnection agreement with a CLEC.

Sec. 4. “Competing Local Exchange Carrier (CLEC)” means a competitive provider of basic service as defined in NAC 704.0062 that is authorized to provide local exchange telecommunications services in Nevada.

Sec. 5. “ILEC Market” means the local exchange in which a CLEC is authorized to originate telecommunications services in competition with such ILEC.

Sec. 6. “Commission Fresh Look Notice” means a neutral, educational public notice issued by the Commission describing the purpose of this Rule and the Fresh Look process.

Sec. 7. “Fresh Look Window” means the period of time in which ILEC customers who have previously entered into contracts with the ILEC may terminate Eligible Contracts with termination liability consistent with this Rule. The Fresh Look Window shall commence when the Commission verifies, by a separate order, that a competitive provider of basic service is operational within a particular exchange. The Fresh Look Window shall terminate one year after the Commission’s order is issued, unless a different time frame is set forth in the order.

Sec. 8. “Eligible Contracts” means contracts or tariffs as defined in Section 9 of this Rule.

Sec. 9. Only Eligible Contracts will be subject to the early termination provisions of

this Fresh Look Rule. Eligible Contracts shall include those contracts between ILECs and customers that have a period of 180 days or longer remaining under the contract. Options to renew and automatic renewals are not included in the determination of the remaining contract term unless penalties under such contract are to be applied if the customer elects not to exercise such options.

Sec. 10. Only those portions of Eligible Contracts that involve the provision of local exchange services or entire contracts where local termination liability is not severable from the non-local services included in the contract will be subject to this Rule.

Sec. 11. As soon as practicable after the Commission declares that a competitor is operational within a particular exchange, the Commission shall issue the Commission Fresh Look Notice within that exchange.

Sec. 12. Upon request, an ILEC shall provide the Commission Fresh Look Notice to any customer inquiring about the provisions of this Rule or the consequences of early termination of eligible contracts by U.S. mail within five (5) business days of the inquiry. Each ILEC shall also provide such information on the ILEC's website, if one exists.

Sec. 13. Each ILEC shall establish a point of contact within such carrier for all Fresh Look inquiries. The point of contact must be knowledgeable about the Fresh Look regulations adopted herein.

Sec. 14. The Commission Fresh Look Notice shall inform the customer of the Fresh Look regulations.

Sec. 15. Each ILEC shall provide a one-time public notice (the "ILEC Fresh Look Notice") to all of its customers with Eligible Contracts in Nevada within thirty (30) days of effective date of the commencement of the Fresh Look Window within a particular exchange. The ILEC Fresh Look Notice shall be approved in advance by the Commission Regulatory Operations Staff.

Sec. 16. Upon the effective date of the Fresh Look regulations, all future contracts between an ILEC and its customers shall contain language notifying the customer of the Fresh Look regulations.

Sec. 17. Only customers seeking early termination of Eligible Contracts with ILECs in order to acquire services from or enter into a new contract with a CLEC or the ILEC within the Fresh Look Window will be eligible for the limited liability provisions set forth in this Rule.

Sec. 18. Any termination of an Eligible Contract with an ILEC prior to the expiration of the contract term during the Fresh Look Window must be in writing.

Sec. 19. During the Fresh Look Window, an ILEC may charge customers a fee for terminating an Eligible Contract. The fee charged must not exceed the lesser of a) the amount

owed under the termination provision of the customer's existing contract with the ILEC; or b) the difference between the amount the customer has already paid under the contract and the charges the customer would have paid if the customer had entered into a contract for the term actually used.

Sec. 20. All disputes concerning Eligible Contracts, termination liability, or other matters within the scope of this Rule shall be resolved by the Commission. The Fresh Look Window for a customer shall remain open, or be extended for the length of any dispute, during the pendency of the Commission's review and resolution of a Fresh Look dispute.