

LCB File No. T042-99

**ADOPTED TEMPORARY REGULATION
OF THE PUBLIC UTILITIES COMMISSION OF NEVADA**
(Effective May 12, 1999)

Docket No. 97-8001 (Licensing Fee - Alternative Sellers)

AUTHORITY: NRS 703.025, 703.151, 704.977.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as Sections 2 to 12, inclusive, of this regulation.

Section 2. Scope. The provisions of this regulation apply to all alternative sellers of electric service as defined in NRS 704.967.

Section 3. Definitions.

“Alternative seller” has the meaning ascribed to it in NRS 704.967.

“Provider of last resort service” means an entity which provides service pursuant to NRS 704.982.

Section 4. The commission shall levy and collect an annual licensing fee from all alternative sellers.

Section 5. The commission shall assess a fee, based on gross revenues on jurisdictional sales of an alternative seller and a provider of last resort service, to the extent the provider is not a public utility, for the calendar year preceding the year in which the fee is payable:

1. equal to the assessment rate for public utilities for the use of the commission;
and

2. equal to the assessment rate for public utilities for the use of the utility consumers advocate in the bureau of consumer protection, except that the minimum fee in any one year must be ten dollars. The rate used to calculate the fee owed to the commission will be no more than the rate used to calculate the assessment for public utilities. An alternative seller may claim a credit for fees paid to regulated public utilities or other alternative sellers for services which are purchased for intrastate resale. The annual licensing fee is not a substitute for the payment of any other applicable fees, including, but not limited to, fees authorized by NRS 703.197 for filing documents.

Section 6. On or before June 1 of each year, the commission shall mail revenue report forms to all alternative sellers under its jurisdiction, to the address of those alternative sellers on file with the commission. The revenue report form serves as notice of the commission's intent to collect a licensing fee, but failure on the part of the commission to notify any alternative seller does not invalidate the requirement of any alternative seller to remit the fee.

Section 7. Each alternative seller shall complete the revenue report, compute the amount of the fee, and return the completed revenue report to the commission with payment of the fee and any penalty due.

Section 8. The licensing fee shall be due on July 1 of each year, but may, at the option of the alternative seller, be paid quarterly on July 1, October 1, January 1 and April 1.

Section 9. The fee and any penalty computed by the alternative seller is subject to review and audit by the commission. The amount of the fee and any penalty may be adjusted by the commission as a result of the audit and review.

Section 10. Any alternative seller which fails to pay the fee on or before August 1, or, if paying quarterly, on or before August 1, October 1, January 1 or April 1, shall pay, in addition to the fee, a penalty of one percent of the total unpaid balance for each month or portion thereof that the fee is delinquent, or ten dollars, whichever is greater. No penalty shall exceed \$1,000 for each delinquent payment.

Section 11. The commission may bring an action in its own name for the collection of any fee or penalty which is not paid pursuant to Sections 2 to 12, inclusive, of this regulation.

Section 12. The commission shall, on a quarterly basis, transfer to the account for the utility consumers advocate in the bureau of consumer protection in the office of the attorney general that portion of the fees collected which belongs to the utility consumers advocate.

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

In Re Investigation of issues to be)
considered as a result of restructuring)
of electric industry (pursuant to NRS) Docket No. 97-8001
704.965 to 704.990, inclusive).)

INFORMATIONAL STATEMENT
(Filed in accordance with NRS 233B.066.)

In August of 1997, the Commission entered an “Order Instituting Investigation” in Docket No. 97-8001, an investigation of issues related to the restructuring of the electric industry. These issues include the maintenance of even and fair competition among providers of electric service.

The requirements for a funding mechanism to adequately regulate all providers of electric services which are not subject to the mill assessment were generally discussed at workshops held between October 1997 and January 1999. A hearing on a proposed regulation was held on February 16, 1999. The proposed regulation was subsequently revised, and a second hearing was held on April 27, 1999. The Commission voted at a duly-noticed agenda meeting held on May 6, 1999 to adopt a temporary regulation. This temporary regulation establishes a licensing fee to be collected from all alternative sellers of electric services.

Solicitation of Comments from the Public and from Affected businesses

The Commission’s notices which were issued in this docket were published in several newspapers of general circulation, mailed to numerous entities which appear regularly before the Commission, mailed to city and county clerks, mailed to the Attorney General’s Office, Bureau of Consumer Protection/Utility Consumers Advocate (“UCA”), and mailed to all

persons who requested inclusion on the Commission's service list. Copies of this informational statement may be obtained by contacting either of the Commission's offices at:

Office of the Public Utilities Commission
1150 East William Street
Carson City, Nevada 89701-3109

(702) 687-6007

or

Office of the Public Utilities Commission
Sawyer Office Building
555 East Washington Avenue, Suite 4500
Las Vegas, Nevada 89101

(702) 486-2600

Summary of Comments

The Commission's first hearing on this regulation was held on February 16, 1999. The comments filed and those made on the record at the hearing focused on proposed refinements to the regulation. Those parties who commented generally supported the concept of a fee to be imposed on alternative sellers, although at least one interested party suggested that the amount of any fee to be collected should not be based on revenues earned by a provider. This party recommended development of a proxy for that portion of revenues which a distribution company would no longer owe to the Commission. In addition, this party recommended assigning the collection function to the distribution company. Another party recommending including language in the regulation which would provide for a credit to an alternative sellers for amounts paid to a distribution company.

The hearing held on February 16, 1999 was attended by approximately eleven persons; approximately seven persons placed comments on the record. Approximately five different entities filed written comments.

The second and final hearing, held on April 27, 1999, was attended by approximately nine persons; approximately seven persons placed comments on the record. Approximately three different entities filed written comments.

Economic Effect of the Regulation

On Affected Businesses

This regulation is needed in order to establish a funding mechanism for the Commission to adequately regulate alternative sellers of electric services. Adverse economic effects, either immediate or long-term, should be limited to the amount of the fee assessed against alternative sellers, which will be part of the cost for that alternative seller to do business in the state of Nevada.

On the Public

The Commission expects the public to benefit from retail competition in electric services. The imposition of this licensing fee may adversely affect the public, both immediately and in the long term, in the sense that customers can expect this fee to be reflected in rates or prices they will pay for electric services. However, since the fees to be collected will be used to regulate the activities of alternative sellers, for the benefit of customers, any adverse economic effect should be appropriately offset. The Commission expects the public to benefit from this regulation because fees collected from alternative sellers will be used to regulate alternative sellers, for the benefit of the public.

Estimated Cost to the Agency for Enforcement

The Commission does not anticipate any increased costs associated with enforcement of these regulations.

Duplication with other Regulations

This regulation does not overlap or duplicate those of other state or government agencies.

Fees

This regulation does provide for a new fee which the Commission will collect. The fees are to be based on an alternative seller's gross revenues. Because no alternative seller has commenced operations at this time, the Commission has no estimate of the amount which it will collect. As stated above, fees collected will be used to regulate alternative sellers.