

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

NAC 703. "Association" defined.

1. For purposes of this chapter, association is defined as an organization, other than a corporation, partnership or limited liability company, created to represent the interests of its members.

NAC Definition

"Hearing officer" means a person appointed by the chairman of the commission pursuant to NRS 703.130(4) and NAC _____, to preside over and conduct proceedings or hearings, or any portion thereof.

NAC 703. Interventions in UEPA filings. Pursuant to NRS 704.885, a notice of intent to intervene or statement of position, if any, must be filed with the commission within 30 days of publication of the commission's notice of application.

NAC 703. Petition to intervene by an association. A petition to intervene by an association will be granted if:

- 1. Two or more of the association's members have a direct and substantial interest in the case; and*
- 2. The association demonstrates, through its charter, contract, or other document, that its purpose is directly related to the subject matter of the proceeding, and the association is authorized to represent members in the proceeding.*

NAC 703. Commenters

- 1. Commenters shall be placed on the service list maintained by the Commission in the matter and shall be served with all filings, orders and notices in the case.*
- 2. Commenters shall be allowed to file written comments at the close of the hearing in the matter. Said comments will become part of the record in the case but shall not be treated as evidence.*
- 3. If, during the pendency of a case, a commenter acquires a 'direct and substantial' interest in the case and desires to participate in the case as an intervener, the commenter may file a late-filed petition for leave to intervene with the Commission. The late-filed petition for leave to intervene must still state a substantial reason for the delay pursuant to NAC 703.590(2).*

NAC Discovery

1. In proceedings before the commission, objections to discovery requests shall be due to the commission and all parties of record 3 business days after receipt of the request and answers to the objections will be due to the commission and all parties of record 10 business days after receipt of the objection.

2. Motions to strike witness testimony shall be received by the commission and all parties of record within 5 calendar days of the receipt of the witness' testimony. Answers to motions to strike witness testimony shall be received by the commission and all parties of record within 3 business days of receipt of said motion. Replies to said answers shall be received by the commission and all parties of record within 2 business days of receipt of said answers.

NAC Appointment, terms, assignments and duties of hearing officers

1. The chairman of the commission may appoint persons to act as hearing officers in matters pursuant to NRS 703.130(4).

2. Each hearing officer shall fill in on a case by case basis or for a specific period of time as designated by the chairman of the commission.

3. If the chairman designates a person to act as a hearing officer, the chairman retains the right, at any time, to revoke the appointment and/or to assume responsibility for presiding over and conducting the proceedings.

4. The hearing officers shall be eligible to serve only as provided in NRS 703.130(4) and where not precluded from serving by NRS 703.130(5) or other applicable law.

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

NAC Hearing procedures

1. All testimony and evidence offered at hearing must be relevant and bear upon the contested matter.

2. For purposes of this section, relevance is any evidence that is directly related to an issue that is before the commission in a proceeding pursuant to the statutory or regulatory standard of review of that issue.

3. Cross examination during a hearing will be limited to information obtained during the direct examination, unless the presiding officer finds that a cross examination which goes beyond a witness' direct testimony will directly assist the commission in formulating its decision.

4. During the hearing, parties may cross examine opposing witnesses. Following cross examinations, re-direct examinations will be limited to specific information obtained or raised during cross examinations. Following re-direct examinations, re-cross examinations will be limited to specific information obtained or raised on re-direct examinations.

NAC Commission Service List

1. The commission shall retain and keep current service lists of individuals who shall receive from the commission copies of commission documents promulgated in all rulemaking and investigatory dockets.

2. The Nevada Press Association shall remain on said service lists, unless and until the association requests to be removed.

NAC 703. Informal settlements.

1. The commission's staff may enter into an agreement with a respondent and the attorney general's bureau of consumer protection for the settlement of an administrative proceeding and without the consent of the other parties if:

a. The agreement shall only settle issues relating to the instant case;

- b. The agreement is re-noticed and the commission conducts a hearing to determine the merits of the agreement; or*
- c. The agreement is otherwise treated as an amended application or petition.*

NAC 703. Ex parte communications.

- 1. A party or a representative of any party shall not communicate, directly or indirectly, with a commissioner or hearing officer regarding substantive issues of matters pending before the commission, unless such communication is served upon all parties and allow for all parties or representatives of all parties to participate.*
- 2. The prohibition in subsection 1 above applies from the filing of a case with the commission until a final order has been issued in the case.*

NAC 703.097 “Rebuttal” defined. “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. *Upon the motion of Staff or any other party, the presiding officer shall strike any rebuttal evidence that does not comport with this section.*

NAC 703.150 Nature of proceedings. Proceedings before the commission are investigative on the part of the commission, although they may be conducted in the form of adversary proceedings, *including but not limited to, rulemaking, fact findings, or adjudicatory proceedings.*

NAC 703.160 Public notice of application or tariff filing.

- 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, the secretary shall publish a notice of the application or tariff filing.
- 2. If the secretary determines that the proposal will have a statewide effect, ~~he shall have~~ the notice *will be* published ~~at least~~ once in ~~six~~ *four* or more newspapers of general circulation in this state, no two of which are published in the same county.
- 3. If the secretary 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 secretary shall have the notice published in a newspaper in an adjoining county.
- 4. The notice must be an advertisement which is not less than 1 column inch by 3 inches, with a border on all sides, 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 commission.The notice must be published prominently so that it is reasonably calculated to notify affected persons.
- 5. The secretary 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.

7. ~~[For the convenience of the public, the secretary shall also have]~~ *A weekly summary of the newspaper notices will be informally published in ~~[a designated]~~ the Sunday edition of a newspaper of general circulation in Carson City and other such newspapers as determined by the Chairman ~~[- but this publication is not a substitute for the publication required by subsections 2 and 3].~~ Such informal notices shall constitute or replace legally required notices. Any failures to publish or deficiencies in the informal notices shall not constitute a failure or deficiency in the legally required notices for any filing or proceeding.*

NAC 703.2474 ~~[Hearing]~~ Consumer sessions to receive public comment ~~[on application to raise rates.]~~

1. ~~[If a utility files an application to raise rates in a general rate case, the commission will schedule a hearing within the service territory of the utility for the purpose of receiving public comment on the application.]~~ *In addition to the consumer sessions required by statute, if it is determined to be in the public interest, the commission may schedule one or more consumer sessions in any matter, including but not limited to filings that will raise customer rates.* The ~~[hearing]~~ *consumer session* will be scheduled at a time and place ~~[convenient to]~~ *for the convenience of* customers of the utility.

2. The utility shall give notice of the time, place and purpose of the ~~[hearing]~~ *consumer session* directly to each of its customers. The notice must be ~~[received]~~ *sent* not less than 10 days before the ~~[hearing]~~ *consumer session*.

~~[3. Nothing in this section shall be deemed to restrict the authority of the commission to schedule such a hearing in any other case.]~~

Applications for Approval of New or Revised Depreciation Rates

NAC 703.2715 Scope. Except as otherwise provided in NAC 704.68494, the provisions of NAC 703.272 to 703.278, inclusive, apply to any electric, gas, telegraph or telephone company, except a carrier between local areas of transport and access as defined by NAC 704.00868 and any public utility furnishing water or sewer services under the jurisdiction of the commission which:

1. Has an annual operating revenue of at least \$250,000; and
2. Submits an application for approval of new or revised depreciation rates.

NAC 703.272 Application. An application for approval of new or revised depreciation rates must include:

1. For each account, the proposed depreciation rate and the existing depreciation rate which will be superseded.
2. A complete and accurate explanation of the circumstances and conditions relied upon as a basis for filing the application. This may include directives of the commission or any other regulatory or judicial body having jurisdiction over the premises.
3. Any prior action taken by the commission relative to the existing and proposed depreciation rates.

NAC 703.2725 Statements to be filed with application; index. The statements prescribed under NAC 703.276 to 703.2775, inclusive, must be filed with the commission simultaneously

with the application. An index of these statements must also accompany the application. This index must indicate which statements are supported by workpapers prepared by the applicant.

NAC 703.273 Request for additional information. The commission will request that information in addition to that specifically required under NAC 703.276 to 703.2775, inclusive, be submitted by a utility if needed to determine the reasonableness of the proposed depreciation rates.

NAC 703.2735 Illustrative statements. Copies of illustrative statements are available at the commission's offices during business hours.

NAC 703.274 Sufficiency of application. *1.* An applicant must be prepared to go forward on the data which have been submitted and to sustain the burden of proof of establishing that its proposed depreciation rates are reasonable. The material relied on in the application must be of such composition, scope and format that it would serve as the applicant's case if the matter is set for hearing.

2. The commission shall issue an order approving or denying, in whole or in part, the applicant's new or revised depreciation rates request within 90 days after the date on which the certification required by this subsection is filed with the commission, or within 180 days after the date on which the general rate application is filed with the commission, whichever time is longer.

NAC 703.2745 Form of statements. Statements must generally follow the illustrative examples available at the commission's offices. Each item must be labeled, mathematically correct and properly cross-referenced. Each statement must indicate the date or period it covers.

NAC 703.275 Data not presented in statements. If the applicant has relied on data in support of its proposed depreciation rates other than that presented in the required statements, he must submit this data with the required statements.

NAC 703.2755 Supporting data.

1. Data submitted in support of proposed depreciation rates must include the required recorded data, adjustments and other computations and information on which a utility relies to justify the proposed depreciation rates.

2. Any data or summaries included in the application which reflect the book of accounts, such as plant and reserve balances, must be supported by accounting workpapers. The workpapers must contain in separate columns all necessary particulars from which an auditor may readily identify the book data included in the application and verify that such data are in agreement with the applicant's book of accounts. All statements and workpapers must be prepared in accordance with the classifications provided in the uniform systems of accounts which are applicable to the applicant. Workpapers in support of all adjustments, computations and other information included in the application must be cross-referenced and available for inspection by the commission's staff.

3. Each applicant must prepare and maintain workpapers which are sufficient to support the application. Failure to produce workpapers promptly on the request of authorized representatives of the commission is a cause for dismissal by the commission of the application in its entirety.

NAC 703.276 Study of depreciation.

1. An applicant shall provide a study of depreciation based upon the remaining life of existing plant at intervals not exceeding 4 years or as otherwise directed by the commission or other regulatory or judicial body having jurisdiction over the premises. The study must be filed with the commission not later than 9 months after the date of the study upon which the proposed depreciation rates are based.

2. An applicant must include in its application statements A, B and C and such schedules, graphs and other information as necessary to support the study and the proposed depreciation rates. The commission will determine whether this information is sufficient to support the application.

NAC 703.2765 Statement A.

1. Statement A must consist of:

(a) A summary for each applicable account of the factors used to compute the proposed depreciation rates;

(b) The depreciable utility plants in place on the date of the study and the annual accrued depreciation which will be realized from the application of the proposed rates to the depreciable plant balances;

(c) The corresponding present rates and accrued depreciation;

(d) The change in accrued depreciation which will result from the application of the proposed rates; and

(e) Intrastate jurisdictional factors and accrued depreciation and the change in jurisdictional accrued depreciation which will result from the application of the proposed rates. Any adjustments to accrued depreciation for amortization or for any other reason in any account, whether proposed or presently in effect, must be noted and fully and clearly explained in a footnote or supporting schedule.

2. If the date of the study does not coincide with the date of the most recent annual report on file with the commission, supporting schedules must be made available showing, in separate columns, the additions and reductions in book accounts made during the period between the date of the annual report and the date of the study for depreciable plant balances and accumulated provisions for depreciation. All adjustments must be clearly and fully explained in the supporting material submitted so that the plant balances and other information contained in statement A may be reconciled with the corresponding information contained in the annual report.

NAC 703.277 Statement B. Statement B must consist of the methods and procedures used in the study of depreciation and the basis for the final selection of the parameters utilized. The statement must include a description of previously utilized and authorized methods and procedures and a description of any changes in those methods or procedures proposed in this application.

NAC 703.2775 Statement C. Statement C must consist of a summary of the analysis of the life of each plant and the value to be gained from salvage for each depreciable plant account. The statement must include such schedules, graphs and other information as are necessary to support the specific selection of the parameters utilized for each plant account. These summaries may be

organized into functional groups and the analysis of value to be gained from salvage may be contained in a separate section.

NAC 703.278 Recording of approved rates. If the commission approves an application for new or revised depreciation rates, the approved rates must be recorded in the books and records of the utility not later than 12 months after the date of approval unless otherwise directed by the commission or any other regulatory or judicial body having jurisdiction over the premises.

NAC 703.490 Classification of Parties

1. According to the nature of the proceedings before the commission 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~~ **commenter**.

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

3. *A person or entity who does not desire to actively present witnesses or whose interests in the matter do not rise to the level of ‘direct and substantial’ interest as required of petitioners for leave to intervene may file comments with the Commission. Such a person or entity must be styled a “commenter”.*

4. A person who complains to the commission of any act by any person subject to the jurisdiction of the commission must be styled a “complainant.”

5. A person granted leave to intervene under NAC 703.580 to 703.600, inclusive, must be styled an “intervener.”

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

7. ~~[Any person, including a state or local governmental entity, who objects to an application, petition or other matter and who files a protest under NAC 703.605 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.]~~ A person against whom any complaint is filed or a person who is the subject of any official investigation by the commission must be styled “respondent.”

NAC 703.565 Filing. *1.* Except as otherwise provided in this section, the original and nine legible copies of all pleadings must be filed with the commission. If a written ~~protest~~ **comment** is made, only the original is required to be filed. The presiding officer may require the parties to file additional copies if needed.

2. Despite any regulations to the contrary, filings received by the commission following noon on Friday of a regular business week shall not be deemed filed with the commission until the beginning of regular business hours on the next business day. Filings received by the commission prior to noon on Friday shall be deemed filed with the commission as of the time the filings are file stamped by the commission.

NAC 703.580 Petition to intervene.

1. Any person who claims to have a direct and substantial interest in a proceeding and desires to participate in it as an intervener must file a petition with the commission requesting an order permitting the intervention.

2. A person has a direct and substantial interest in a proceeding under the following circumstances:

- (a) When a statute explicitly confers a right to intervene; or*
- (b) When the person claims an interest relating to the property or transaction which is the subject of the proceeding and he is so situated that the disposition of the proceeding will, as a practical matter, impair or impede his ability to protect that interest, unless the person is adequately represented by existing parties.*

3. A person does not have a direct and substantial interest in a proceeding when the interest is:

- (a) Speculative;*
- (b) Based solely on a person's involvement in another docket; or*
- (c) Based solely on competitive concerns when the proceeding does not specifically involve competitive aspects of the utility industry.*

NAC 703.660 Notice of Hearing.

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

2. The secretary shall file or cause to be filed an affidavit of publication with the commission.

3. The commission 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 secretary determines that the subject matter of the hearing will have a statewide effect, the notice will be published ~~[at least]~~ once in ~~[six]~~ **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 secretary 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.

(3) A weekly summary of the newspaper notices will be *informally* published in the Sunday edition of a newspaper of general circulation in Carson City *and other such newspapers as determined by the Chairman*. ~~[The summary is not a substitute for the notice required by subparagraph (1) or (2) of paragraph (a).]~~ *Such informal notices shall constitute or replace legally required notices. Any failures to publish or deficiencies in the informal notices shall not constitute a failure or deficiency in the legally required notices for any filing or proceeding.*

(b) The commission will also mail a copy of the notice of hearing to the clerk of each county or city where affected members of the public reside and to other interested persons.

4. The commission 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 commission's principal office at least 3 days before the date set for the hearing.

NAC 703.675 Failure of party to appear. If ~~[an applicant, petitioner or complainant]~~ *a party* fails to appear at the time and place set for *prehearing conference, workshop, or* hearing *without prior notification to the commission*, the commission ~~[may]~~ *shall* dismiss the ~~[petition, application or complaint]~~ *party* with or without prejudice, or may, upon good cause shown,

recess the hearing to a future date to be set by the commission to enable the ~~applicant,~~ ~~petitioner or complainant~~ party to attend.

NAC 703.850 Definitions. As used in NAC 703.850 to 703.890, 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.]~~ 2. “Respondent” means a person against whom an administrative proceeding is initiated.

Repeal NAC 703.850 et seq.

NAC 703.~~865~~ Settlement of proceedings.

1. The commission’s staff may enter into a ~~[n agreement]~~ stipulation with ~~[a respondent]~~ *the other parties to the instant case* for the settlement of an administrative proceeding. The ~~[agreement]~~ stipulation must be signed by the commission’s staff and ~~[the respondent, and state that the respondent consents to the imposition of a fine in a specific amount]~~ *all other parties to the instant case*. ~~[Unless it so provides, the agreement must not be construed as an admission by the respondent of his commission of any violation alleged in the complaint.]~~

2. Upon entering into such a ~~[n agreement]~~:
~~—(a) T] stipulation,~~ the commission’s staff shall submit the ~~[agreement]~~ stipulation to the commission~~]; and~~
~~—(b) The respondent shall deposit with the commission a cashier’s check or money order, payable to the commission, for the amount of the agreed fine. The commission will maintain the amount in an interest-bearing trust account until it enters a final order in the administrative proceeding.]~~ *for approval.*

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

4. The stipulation must only address issues before the commission in the instant case and shall not seek to obtain relief that the commission is not otherwise empowered to grant.

~~[4. Upon termination of the administrative proceeding, the commission 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.]~~

NAC 704 Deviation from regulations

1. Where good cause appears, the commission may permit deviation from any of the regulations listed in NAC 704, inclusive, if the commission finds that the deviation is in the public interest and is not contrary to statute.

NAC 704.680303 Plans for reporting and auditing performance measures and establishing performance incentives; Request for approval; hearing; renewal; request for modification.

1. A nonrural incumbent local exchange carrier shall, in accordance with NAC 704.6803 to 704.680315, inclusive, file with the commission a request for the approval of:

a. A plan for the reporting and auditing of performance measures;
and

b. A plan establishing performance incentives.

2. The commission will conduct a hearing on a request for approval of the plans submitted pursuant to subsection 1 ~~[not later than 60 calendar days after the date on which the request for approval is filed with the commission]~~. At such a hearing, any certificated competitive local exchange carrier doing business in the service areas of the nonrural incumbent local exchange carrier that filed the request for approval may request modifications to the plan.

3. The commission will issue an order granting, denying or modifying a request for the approval of the plans ~~[within 120 calendar days after the date on which the commission holds a hearing on the request for approval]~~.

4. Not later than January 31 of *every third* ~~[each]~~ year *beginning with 2004*, the nonrural incumbent local exchange carrier shall file a request for review with the commission of the plans. The commission may, upon good cause shown, conduct a hearing and issue an order in accordance with this section on a request for the renewal of the approval of the commission of the plan. The commission shall review and rule on each request for approval within a reasonable time.

5. Unless good cause is shown, no person may request a modification of the plans except as otherwise provided in this section. If good cause is shown, the commission will treat a request for modification as a request for approval subject to the provisions of this section.

NAC 704.7472 Certificate of public convenience and necessity: Contents of application; applicable provisions

1. An application for a certificate of public convenience and necessity filed by a competitive provider of telecommunication service must contain the following information, either in the application or as exhibits attached to it:

(a) The type of service, if any, presently being provided by the applicant, or being proposed to be provided by the applicant, and a general description of the service;

(b) The most recent annual financial statements of the applicant, or if annual financial statements are not available, financial statements of the most recent quarterly period;

(c) A copy of the certificate issued by the secretary of state of the State of Nevada which acknowledges that the provider has filed its articles of incorporation with the secretary of state;

(d) Proof that a performance bond has been obtained in an amount which is sufficient to cover deposits and advance payments paid by customers ~~[, or proof that all such deposits and advance payments are being held in an escrow account]~~;

(e) The toll-free telephone number that the customers will be given for contacting the provider regarding the establishment of service, complaints, and queries about service and billing, and all other customer service matters;

(f) Facts sufficient to establish that the provider possesses the necessary technical capability to provide the proposed service; and

(g) A statement concerning whether the provider intends to provide switched telecommunication service within an exchange. If the provider intends to provide switched telecommunication service within an exchange, the application must include affirmation that the provider will offer basic service to its customers.

2. The provisions of NRS 704.330, 704.350 and 704.370 apply to any such application.

3. As used in this section, “advance payment” means the money paid by a customer to a provider of telecommunication service for a service which the customer has not yet received, including payments for telecommunication debit card services.

4. Any applicant doing business under a different name than that which is listed on the application shall file with its application a fictitious firm name filing. Said fictitious firm name filing may be obtained by the applicant from any county within the State of Nevada.

NAC 704.080 Deviation from regulations. ~~{Where good cause appears, the commission may permit deviation from NAC 704.023 to 704.195, inclusive, if the deviation is found to be in the public interest and is not contrary to statute.}~~

NAC 704.324 Modification or waiver of NAC 704.323. ~~{The commission will modify or waive the application of any provision of NAC 704.323 to a particular utility if it finds that the application of that provision would unreasonably burden that utility.}~~

NAC 704.467 Waiver permitted. ~~{Upon application, the commission may waive compliance with any provision of NAC 704.460 to 704.467, inclusive, if it finds that compliance would be impracticable or imprudent under the circumstances.}~~

NAC 704.538 Waiver of compliance. ~~{Upon application, the commission may waive compliance with any provision of NAC 704.531 to 704.538, inclusive, if it finds that compliance would be impracticable or imprudent under the circumstances.}~~

NAC 704.630 Deviation from regulations. ~~{If a utility believes that its compliance with NAC 704.570 to 704.630, inclusive, would be impracticable or unnecessary because of factors which are unique to its application, the utility may apply to the commission for a variance from those provisions.}~~

NAC 704.68052 Disbursement from fund limited to support of extension or improvement of basic service; petition for disbursement.

~~{1. A current or potential provider of basic service may file a petition with the commission requesting a disbursement of money from the fund for universal service only to support an extension or improvement in service which is necessary to provide or improve basic service to new or existing customers. The petitioning provider has the burden of demonstrating that no service is available, or that the basic service which is available is inadequate, and that recourse to the fund for universal service is the only viable method for funding all or a portion of the extension or improvement.~~

~~—2. A provider of basic service who requests money from the fund for universal service to extend service to customers who are not currently served by the provider or to upgrade service to the level of basic service, must submit:~~

~~—(a) The projected cost of the extension or upgrade of service, including a detailed description of the facility to be installed;~~

~~—(b) The projected revenues to be generated from the customers served by the extended or upgraded service;~~

~~—(c) The type and grade of service to be provided; and~~

~~—(d) Such facts as are necessary to demonstrate the need for:~~

- ~~— (1) The proposed extension or service upgrade; and~~
~~— (2) Money from the fund for universal service to complete the proposed extension or service upgrade.~~
~~— 3. The commission will issue an order which fully or partially approves or denies the petition. The administrator shall use the order to determine the total annual amount of money needed to support the fund for universal service and the amount of money to be distributed to each eligible provider.]~~

NAC 704.784 Deviation from regulation. ~~[Upon application, the commission will allow a deviation from a provision of NAC 704.760 to 704.782, inclusive, if the commission finds that there is a good cause for the deviation and to allow it would be in the public interest.]~~

COMPETITIVE PROVISION OF UTILITY SERVICES

Distribution Companies and Affiliates

NAC 704.789 Definitions. (NRS 703.025, 704.980, 704.981, 704.998) ~~[As used in NAC 704.789 to 704.792, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.7891 to 704.7895, inclusive, have the meanings ascribed to them in those sections.]~~

NAC 704.7891 “Affiliate” defined. (NRS 703.025, 704.980, 704.981, 704.998) ~~[“Affiliate” means a company that is a branch, division or subsidiary of a distribution company that:~~

- ~~— 1. Provides a potentially competitive or discretionary electric or natural gas service; or~~
~~— 2. Is a provider of last resort as described in NRS 704.982.]~~

NAC 704.7892 “Customer” defined. (NRS 703.025, 704.980, 704.981, 704.998) ~~[“Customer” means the retail purchaser of electric or natural gas service.]~~

NAC 704.7893 “Distribution company” defined. (NRS 703.025, 704.980, 704.981, 704.998) ~~[“Distribution company” includes:~~

- ~~— 1. An electric distribution utility as defined in NRS 704.970; and~~
~~— 2. A seller of any noncompetitive component of natural gas service.]~~

NAC 704.7894 “Noncompetitive service” defined. (NRS 703.025, 704.980, 704.981, 704.998) ~~[“Noncompetitive service” means any electric or natural gas service determined by statute or by the commission to be unsuitable for purchase by customers from alternative sellers.]~~

NAC 704.7895 “Potentially competitive service” defined. (NRS 703.025, 704.980, 704.981, 704.998) ~~[“Potentially competitive service” means a component of electric or natural gas service determined by the commission to be suitable for purchase by customers from alternative sellers. The term includes any potentially competitive electric service that is deemed to be effectively competitive pursuant to NRS 704.976.]~~

NAC 704.7896 Applicability. (NRS 703.025, 704.980, 704.981, 704.998)

- ~~[1. NAC 704.789 to 704.792, inclusive:~~
~~— (a) Apply to the provision of services as set forth in NRS 704.961 to 704.999, inclusive.~~
~~— (b) Do not apply to a public utility that supplies natural gas which is not regulated under an alternative plan established pursuant to NRS 704.997.~~
~~— 2. The provisions of NAC 704.789 to 704.792, inclusive, are not in any way restricted by the provisions of NAC 704.270 to 704.2725, inclusive.]~~

NAC 704.7897 Provision of potentially competitive or discretionary electric or natural gas service. (NRS 703.025, 704.980, 704.981, 704.998)

~~[1. A distribution company may not provide any potentially competitive or discretionary electric or natural gas service.~~

~~— 2. An affiliate of a distribution company may provide a potentially competitive or discretionary electric or natural gas service upon approval by the commission and in accordance with NAC 704.789 to 704.792, inclusive.]~~

NAC 704.7898 Business relationship between distribution company and affiliate: Requirements; restrictions. (NRS 703.025, 704.980, 704.981, 704.998)

~~[1. An affiliate shall:~~

~~— (a) Be a separate corporate entity from the distribution company;~~

~~— (b) Operate independently from the distribution company;~~

~~— (c) Maintain books, records and accounts in the manner prescribed by the commission;~~

~~— (d) Keep its books, records and accounts separate from the books, records and accounts kept by the distribution company;~~

~~— (e) Not have officers, directors or employees in common with the distribution company, except that the chairman of the distribution company or of the holding company of the distribution company may serve on the board of directors of the affiliate;~~

~~— (f) Not have any member on its board of directors who is also an employee or officer of the distribution company, except as otherwise provided in paragraph (e);~~

~~— (g) Not obtain credit pursuant to an arrangement that would allow a creditor, upon default, to have recourse to the assets of the distribution company; and~~

~~— (h) Not use office space, office equipment or office services provided by the distribution company, unless the affiliate executes with the distribution company a contract that is approved by the commission. The affiliate and the distribution company must:~~

~~— (1) File the contract with the commission as a joint application not later than 6 months before the effective date of the contract; and~~

~~— (2) Demonstrate to the commission that the contract:~~

~~— (I) Does not circumvent the provisions of NAC 704.789 to 704.792, inclusive;~~

~~— (II) Preserves an arm's length business relationship between the affiliate and the distribution company;~~

~~— (III) Does not interfere with the development of effective competition;~~

~~— (IV) Will result in minimal risk of anticompetitive behavior by the affiliate or distribution company; and~~

~~— (V) Will result in minimal regulatory expenses to prevent anticompetitive behavior.~~

~~The contract must not become effective until the commission approves the contract. Unless the commission determines otherwise, all office space, office equipment and office services provided by the distribution company pursuant to the contract are subject to the provisions of NAC 704.7901.~~

~~— 2. A distribution company shall document and report quarterly to the commission each occasion that:~~

~~— (a) An employee of the distribution company becomes an employee of an affiliate; or~~

~~— (b) An employee of an affiliate becomes an employee of the distribution company.~~

~~— 3. An employee of a distribution company who is hired by an affiliate:~~

- ~~—(a) Shall not remove proprietary property or information from the distribution company;~~
- ~~—(b) Shall not provide the affiliate with proprietary property or information of the distribution company;~~
- ~~—(c) Shall not use proprietary property or information of the distribution company on behalf of the affiliate; and~~
- ~~—(d) Shall, before he becomes an employee of the affiliate, sign a statement indicating that the employee has read and will abide by the restrictions set forth in this section and understands that a violation of a provision of this section could subject him to the penalties set forth in NAC 704.7919.]~~

NAC 704.7899 Distribution company: Designation of officer to evaluate and certify compliance with certain provisions. (NRS 703.025, 704.980, 704.981, 704.998) ~~[A distribution company shall designate an officer to evaluate and certify compliance with NAC 704.789 to 704.792, inclusive.]~~

NAC 704.7901 Distribution company: Standards of conduct when dealing with affiliate. (NRS 703.025, 704.980, 704.981, 704.998) ~~[When dealing with an affiliate, a distribution company:~~

- ~~— 1. Shall not discriminate between the affiliate and another entity that competes with the affiliate in the provision or procurement of goods, services, facilities and information, or in the establishment of standards.~~
- ~~— 2. Shall not refuse to provide an entity that is in competition with an affiliate with goods, services, facilities or information which the commission determines the distribution company is reasonably capable of providing to its affiliate, regardless of whether the distribution company currently offers such goods, services, facilities or information to an affiliate.~~
- ~~— 3. Shall not, when providing or procuring, or declining to provide or procure, goods, services, facilities or information, or when establishing standards, provide, attempt to provide or conspire with another person, including, without limitation, an affiliate, to provide:~~
 - ~~—(a) A competitive advantage to an affiliate; or~~
 - ~~—(b) A competitive disadvantage to a competitor of an affiliate.~~
- ~~— 4. Shall account for all transactions with each affiliate in accordance with accounting principles designated or approved by the commission.~~
- ~~— 5. Shall, if it offers to an affiliate a good or service other than a good or service provided by a contract pursuant to paragraph (h) of subsection 1 of NAC 704.7898, offer the same service to all similarly situated nonaffiliated entities.~~
- ~~— 6. Shall, at the same time it offers to an affiliate a good or service other than a good or service provided by contract pursuant to paragraph (h) of subsection 1 of NAC 704.7898, offer the same service to nonaffiliated entities by using the mechanism described in subsection 7.~~
- ~~— 7. Shall provide a mechanism that is accessible to the public, such as an electronic bulletin board, for all interested entities to receive promptly pertinent information concerning:~~
 - ~~—(a) Services which the distribution company provides;~~
 - ~~—(b) Any discounted services which the distribution company offers to an affiliate; and~~
 - ~~—(c) Any transaction between the distribution company and an affiliate.~~
- ~~— 8. Shall not represent that it will provide an affiliate or a customer of an affiliate with different treatment regarding the provision of services as a result of affiliation with the~~

~~distribution company than the treatment the distribution company provides a nonaffiliated provider of service and its customers.~~

~~—9. Shall not provide an affiliate or a customer of an affiliate with preferences over a nonaffiliated supplier or its customers, including, without limitation, preferences in terms and conditions of service or pricing, or in timing of service.~~

~~—10. Shall apply a tariff provision that allows for discretion in its application in the same manner for an affiliate and customers of the affiliate as it does for another market participant and its customers.~~

~~—11. Shall strictly enforce mandatory tariff provisions.~~

~~—12. Shall not condition or otherwise tie the provision of a utility service or the availability of discounts, rates, other charges, fees, rebates or waivers of terms and conditions to the taking of any goods or services from an affiliate.~~

~~—13. Shall not:~~

~~—(a) Refer a potential customer to an affiliate;~~

~~—(b) Provide information to an affiliate regarding a potential business arrangement between a potential customer and the affiliate;~~

~~—(c) Except as otherwise prescribed by the commission, acquire information on behalf of or to provide to an affiliate;~~

~~—(d) Share with an affiliate a market analysis report, survey, research or any other type of report that is proprietary or not available to the public, including, without limitation, a forecast, planning or strategic report;~~

~~—(e) Give an appearance that the distribution company speaks on behalf of an affiliate or that a customer will receive preferential treatment as a consequence of conducting business with an affiliate; or~~

~~—(f) Give an appearance to a third party that an affiliate speaks on behalf of the distribution company.~~

~~Nothing in this subsection prohibits an affiliate from billing for distribution services in a manner consistent with NAC 704.789 to 704.792, inclusive.~~

~~—14. Shall make any discount or waiver of all or a part of a charge or fee available to all market participants.~~

~~—15. Shall not share the office space, equipment or services of an affiliate or access the computer information systems of an affiliate, unless the affiliate executes a contract with the distribution company that has been approved by the commission pursuant to the procedures set forth in paragraph (h) of subsection 1 of NAC 704.7898.]~~

NAC 704.7902 Distribution company: Conditions for provision of information concerning specific customers to affiliate and nonaffiliated entity. (NRS 703.025, 704.980, 704.981, 704.998) ~~[A distribution company shall provide information about specific customers to its affiliates and to nonaffiliated entities:~~

~~—1. On a strictly nondiscriminatory basis;~~

~~—2. Only with the consent of a customer; and~~

~~—3. In accordance with the rules or standards required by the commission.]~~

NAC 704.7903 Distribution company: Conditions for provision of general information to affiliate. (NRS 703.025, 704.980, 704.981, 704.998) ~~[Information that is not specific to a customer, including, without limitation, information concerning the goods, services, purchases,~~

~~sales or operations of the distribution company, may be made available to an affiliate only if the distribution company:~~

- ~~—1. Makes such information contemporaneously available to all alternative sellers at the same price, terms and conditions; and~~
- ~~—2. Keeps the information open to public inspection.]~~

NAC 704.7904 Distribution company: Provision of list of alternative sellers prohibited; exception. (NRS 703.025, 704.980, 704.981, 704.998) ~~[Except as otherwise authorized by the commission, a distribution company shall not provide a person with a list of alternative sellers.]~~

NAC 704.7905 Distribution company: Advice or assistance to customer concerning affiliate or other service provider prohibited; exception. (NRS 703.025, 704.980, 704.981, 704.998) ~~[Except as otherwise provided in NAC 704.789 to 704.792, inclusive, a distribution company shall not offer or provide a customer with advice or assistance of any kind regarding an affiliate or another service provider.]~~

NAC 704.7906 Distribution company: Maintenance of certain records; availability for review by third parties. (NRS 703.025, 704.980, 704.981, 704.998) ~~[A distribution company shall:~~

- ~~—1. Keep for at least 3 years a record documenting a transaction with an affiliate, including, without limitation, a record documenting:~~
 - ~~—(a) A waiver of a tariff;~~
 - ~~—(b) A waiver of a contract provision;~~
 - ~~—(c) A discount given by the distribution company to the affiliate; and~~
 - ~~—(d) Contracts or related bids for the provision of work, products or services for or from an affiliate.~~
- ~~—2. Make the records that the distribution company is required to maintain pursuant to subsection 1 available for review by third parties upon notice of at least 72 hours, unless the distribution company makes a different agreement with a third party concerning the review of the record.]~~

NAC 704.7907 Distribution company: Duties related to provision of services to affiliate or nonaffiliated entity. (NRS 703.025, 704.980, 704.981, 704.998) ~~[Except as otherwise stated in its approved tariff, a distribution company:~~

- ~~—1. Shall fulfill a request from a nonaffiliated entity for service within a period no longer than the period in which it fulfills such a request for itself or for an affiliate;~~
- ~~—2. Shall charge each affiliate an amount for service that is no less than the amount charged to any nonaffiliated entity for the same service;~~
- ~~—3. May, in accordance with the provisions of paragraph (h) of subsection 1 of NAC 704.7898, provide an affiliate with facilities, services and information if the distribution company makes such facilities, services and information available to all nonaffiliated entities at the same rates and on the same terms and conditions and the costs are allocated in a manner acceptable to the commission;~~
- ~~—4. May not market or sell services that are provided by an affiliate; and~~
- ~~—5. May not state that it is an affiliate of a potentially competitive or discretionary service unless the statement complies with the requirements set forth in subsection 6 of NAC 704.7913.]~~

NAC 704.7908 Provision of discount, rebate or other waiver of charge or fee to affiliate by distribution company: Notice; contents. (NRS 703.025, 704.980, 704.981, 704.998)

~~[1. If a distribution company provides an affiliate with a discount, rebate or other waiver of a charge or fee, the distribution company shall, at the time the service for which the distribution company is giving the discount, rebate or other waiver of a charge or fee is first provided, post on the electronic bulletin board of the distribution company a notice which includes, without limitation:~~

- ~~— (a) The name of the affiliate involved in the transaction;~~
 - ~~— (b) The actual rate charged by the distribution company;~~
 - ~~— (c) The maximum rate that the distribution company may charge pursuant to its tariff;~~
 - ~~— (d) The period during which the discount or waiver applies;~~
 - ~~— (e) The quantities involved in the transaction;~~
 - ~~— (f) The delivery points involved in the transaction;~~
 - ~~— (g) Any conditions or requirements applicable to the discount or waiver; and~~
 - ~~— (h) The procedures through which a nonaffiliated entity may request and receive a comparable discount, rebate or other waiver of a charge or fee.~~
- ~~— 2. This section does not provide a distribution company with any authority not otherwise existing to grant a discount, rebate or other waiver of a charge or fee.]~~

NAC 704.7909 Provision of discount, rebate or other waiver of charge or fee to affiliate by distribution company: Requirements for maintenance of records. (NRS 703.025, 704.980, 704.981, 704.998)

~~[1. A distribution company that provides an affiliate with a discounted rate, rebate or other waiver of a charge or fee for a service shall, for each billing period, maintain in its records:~~

- ~~— (a) The name of the affiliate to which the distribution company is providing services pursuant to the transaction;~~
- ~~— (b) A description of the role of the affiliate in the transaction, including, without limitation, whether the affiliate will act as a transporter, marketer, supplier or seller;~~
- ~~— (c) The duration of the discount or waiver;~~
- ~~— (d) The maximum rate that the distribution company may charge pursuant to its tariff;~~
- ~~— (e) The rate or fee that the distribution company charges during the billing period; and~~
- ~~— (f) The quantity of products or services scheduled at the discounted rate during the billing period for each delivery point.~~

~~— 2. All records maintained pursuant to this section must also conform to rules of the Federal Energy Regulatory Commission, where applicable.~~

~~— 3. This section does not provide the distribution company with any authority not otherwise existing to grant such discount, rebate or other waiver of a charge or fee.]~~

NAC 704.791 Audit of distribution company with affiliate: Requirements. (NRS 703.025, 704.980, 704.981, 704.998)

~~[1. Unless the commission specifies otherwise, a distribution company with an affiliate shall obtain and pay for an audit 6 months after the affiliate first provides service to customers and once every year thereafter:~~

~~— 2. The audit required pursuant to subsection 1 must be conducted by an independent auditor selected by the commission.~~

~~— 3. The auditor shall determine whether a distribution company has complied with all pertinent regulations, including, without limitation, whether the distribution company has:~~

- ~~—(a) Complied with the separate accounting requirements set forth in NAC 704.7898; and~~
- ~~—(b) Provided information or services to affiliated and nonaffiliated entities on a nondiscriminatory basis.~~
- ~~—4. The auditor shall submit the results of the audit to the commission.~~
- ~~—5. The commission will make the results of the audit available for public inspection.~~
- ~~—6. Any person may submit comments on the final audit report.]~~

NAC 704.7911 Audit of distribution company with affiliate: Access to certain records. (NRS 703.025, 704.980, 704.981, 704.998) ~~[For purposes of conducting an audit pursuant to NAC 704.791, the distribution company and its affiliates shall provide the independent auditor, the commission staff, the bureau of consumer protection in the office of the attorney general and the commission access to:~~

- ~~—1. Financial accounts and records which:~~
 - ~~—(a) Verify that the transactions conducted between the distribution company and its affiliates are authorized by and conducted in accordance with the provisions of NRS 704.961 to 704.999, inclusive, and NAC 704.789 to 704.792, inclusive; and~~
 - ~~—(b) Relate to the regulation of rates;~~
- ~~—2. All records in any form relating to the provision of information or services to affiliated or nonaffiliated entities; and~~
- ~~—3. The working papers and supporting materials of any auditor who performed an audit pursuant to NAC 704.791.]~~

NAC 704.7912 Requirements for pricing goods or services transferred by distribution company or affiliate. (NRS 703.025, 704.980, 704.981, 704.998)

- ~~[1. If a distribution company transfers goods or services to an affiliate, the distribution company must price the goods or services at fair market value or fully loaded cost, whichever is higher.~~
- ~~—2. If an affiliate transfers goods or services to the distribution company, the affiliate shall price the goods or services at fair market value or fully loaded cost, whichever is less.~~
- ~~—3. As used in this section, “fully loaded cost” means the direct costs of goods and services plus all applicable indirect charges and overhead costs, including, without limitation, a reasonable rate of return.]~~

NAC 704.7913 Affiliate: Standards of conduct. (NRS 703.025, 704.980, 704.981, 704.998)
~~[An affiliate:~~

- ~~—1. Shall not market or otherwise sell services jointly with the distribution company;~~
- ~~—2. Shall not have a name, logo, trade mark, service mark or trade name that is deceptively similar to that of the distribution company, except that an affiliate which has been designated by the commission as a provider of last resort service pursuant to NRS 704.982 may have a name, logo, trade mark, service mark or trade name that is similar or identical to that of the distribution company if the affiliate has been specifically authorized to do so by the commission, subject to any conditions that the commission deems necessary;~~
- ~~—3. Shall not have the logo, trade mark or other corporate identification of the distribution company appear on documents of the affiliate or on goods or merchandise sold by the affiliate, unless the commission:~~
 - ~~—(a) Designates the affiliate to be the provider of last resort service pursuant to NRS 704.982; and~~
 - ~~—(b) Specifically authorizes, subject to any conditions that the commission deems necessary, the affiliate to use the name, logo, trade mark, service mark or trade name;~~

~~— 4. Shall not use the name of the distribution company in any material that the affiliate circulates, unless the affiliate provides with the material the information described in subsection 6;~~

~~— 5. Shall not use space in the correspondence of the distribution company or any other form of information about the distribution company for the purpose of advertising the services of the affiliate; and~~

~~— 6. Shall not advertise its affiliation with the distribution company, unless the affiliate includes each of the following statements in a manner no less prominent than the statement of affiliation:~~

~~— (a) (Name of the affiliate) is not the same corporation as (name of distribution company). (Name of affiliate) has separate management and separate employees.~~

~~— (b) (Name of affiliate)'s affiliation with (name of distribution company) does not entitle (name of affiliate) to any special endorsement of the public utilities commission of Nevada.~~

~~— (c) The safety, reliability and cost of distribution service received by customers of (name of affiliate) will be equivalent to that received by customers of nonaffiliated companies.]~~

NAC 704.7914 Affiliate: Conditions for offering goods or services. (NRS 703.025, 704.980, 704.981, 704.998) ~~[An affiliate of a distribution company shall not offer goods or services until the affiliate satisfies any applicable requirements set forth in NAC 704.789 to 704.792, inclusive, except the appointment of an auditor pursuant to NAC 704.791.]~~

NAC 704.7915 Violations of certain provisions. (NRS 703.025, 704.980, 704.981, 704.998) ~~[Each transaction that violates the provisions of NAC 704.789 to 704.792, inclusive, will be considered a separate violation.]~~

NAC 704.7916 Violations: Procedures for processing complaints. (NRS 703.025, 704.980, 704.981, 704.998)

~~[1. A person or business may complain to the commission or distribution company in writing, setting forth any act or thing allegedly done or not done by a distribution company or affiliate in violation of NAC 704.789 to 704.792, inclusive.~~

~~— 2. Upon request of a complainant who is a current or former employee of a distribution company or an affiliate, the commission will maintain the confidentiality of the complainant until the end of any resulting investigation or longer if the commission deems it necessary.~~

~~— 3. The distribution company shall refer all complaints, whether written or oral, to a designated representative of the distribution company, who shall:~~

~~— (a) Acknowledge receipt of the complaint in writing to the complainant within 5 working days after receiving the complaint;~~

~~— (b) Prepare a written summary of the complaint which must include, without limitation:~~

~~— (1) The name of the complainant; and~~

~~— (2) A detailed factual report of the complaint, including, without limitation:~~

~~— (I) The relevant dates;~~

~~— (II) The names of the companies involved;~~

~~— (III) The names of the employees involved; and~~

~~— (IV) The details of the claim;~~

~~— (c) Conduct a preliminary investigation; and~~

~~— (d) Communicate the results of the preliminary investigation, including, without limitation, a description of any course of action that was taken as a result of the investigation, in writing to the~~

~~complainant not more than 20 business days after the designated representative received the complaint.~~

~~—4. The distribution company shall:~~

~~—(a) Maintain a public log of all new, pending and resolved complaints; and~~

~~—(b) Make the public log available to the commission and the bureau of consumer protection in the office of the attorney general not more than 10 business days after the end of each month, which must include, without limitation:~~

~~—(1) A written summary of each complaint; and~~

~~—(2) A written summary of the manner in which each complaint was resolved or, if applicable, an explanation of the reason why a complaint is still pending.]~~

NAC 704.7917 Violations: Investigation of complaint; notice and hearing. (NRS 703.025, 704.980, 704.981, 704.998)

~~[1. The division of consumer complaint resolution shall investigate any complaint concerning a violation of the provisions of NAC 704.789 to 704.792, inclusive, in the manner set forth in NRS 703.310.~~

~~— 2. If the division transmits a complaint to the commission and the commission determines that probable cause exists for the complaint, the commission will:~~

~~—(a) Order that a hearing be held;~~

~~—(b) Provide notice of the hearing to the parties; and~~

~~—(c) Conduct the hearing as it would any other hearing.]~~

NAC 704.7918 Enforcement of provisions or order of commission. (NRS 703.025, 704.980, 704.981, 704.998) ~~[After a hearing has been held pursuant to NAC 704.7917, the commission, when enforcing the provisions of NAC 704.789 to 704.792, inclusive, or an order of the commission that relates to NAC 704.789 to 704.792, inclusive, may, without limitation:~~

~~— 1. Terminate a transaction if the violation caused material harm to the competitive market;~~

~~— 2. Prospectively limit or restrict the amount, percentage or value of transactions entered into between a distribution company and its affiliates;~~

~~— 3. Assess a penalty pursuant to the provisions of NAC 704.7919; or~~

~~— 4. Apply any other remedy which is available to the commission.]~~

NAC 704.7919 Penalties: General. (NRS 703.025, 704.980, 704.981, 704.998)

~~[1. A penalty assessed by the commission must reflect the actual or potential injury, or both, to ratepayers and competitors, and the gravity of the violation.~~

~~— 2. Repeated violations will require more severe penalties.~~

~~— 3. In addition to any other penalties, the commission may subject a distribution company to a penalty of not more than \$20,000 for each time the distribution company:~~

~~—(a) Violates a provision of NAC 704.789 to 704.792, inclusive;~~

~~—(b) Fails to perform a contractual duty; or~~

~~—(c) Fails, neglects or refuses to obey an order, regulation, directive or requirement of the commission.~~

~~— 4. Penalties for a supplier of a noncompetitive natural gas distribution service are limited pursuant to the provisions of NRS 703.380.~~

~~— 5. The commission may deem a violation that continues for more than 1 day to be a separate violation for each day the violation continues.~~

~~— 6. A penalty or other remedy imposed by the commission will in no manner preclude the right of a party to pursue a private action in a court of competent jurisdiction.~~

~~—7. A fine or penalty collected pursuant to the provisions of NAC 704.789 to 704.792, inclusive, must be deposited in the state treasury pursuant to NRS 703.147 for the purposes identified therein.~~

~~—8. For each violation of the provisions of NAC 704.789 to 704.792, inclusive, the affiliate shall include in one monthly billing packet a notice, written by the commission, that informs the public of the substance of the violation and explains how members of the public can report similar violations in the future.~~

~~—9. The penalties set forth in this section do not preclude any other penalty from being imposed pursuant to NAC 704.789 to 704.792, inclusive, or any other provision of law.]~~

NAC 704.792 Penalties: Repeated violations. (NRS 703.025, 704.980, 704.981, 704.998)

~~[1. If the commission finds in two separate orders that a distribution company has materially violated the provisions of NAC 704.789 to 704.792, inclusive, more than twice in a period of 12 months, the distribution company may not, for 1 year after the date of the findings by the commission, enter into a transaction with an affiliate that was involved in the violations.~~

~~—2. If a distribution company violates the provisions of subsection 1 by entering into a prohibited transaction with an affiliate, the commission may:~~

~~—(a) Extend the period in which the distribution company is prohibited from entering into a transaction with the affiliate; or~~

~~—(b) Permanently prohibit the distribution company from entering into a transaction with the affiliate.~~

~~—3. The penalties set forth in this section do not preclude any other penalty from being imposed pursuant to NAC 704.789 to 704.792, inclusive, or any other provision of law.]~~

Electric Service: Providers of Last Resort

~~NAC 704.79601 Definitions.~~ (NRS 703.025) ~~[As used in NAC 704.79601 to 704.79665, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.79603 to 704.79635, inclusive, have the meanings ascribed to them in those sections.]~~

~~NAC 704.79603 “Affiliate” defined.~~ (NRS 703.025) ~~[“Affiliate” has the meaning ascribed to it in NRS 78.412.]~~

~~NAC 704.79605 “Alternative seller” defined.~~ (NRS 703.025) ~~[“Alternative seller” has the meaning ascribed to it in NRS 704.967.]~~

~~NAC 704.79607 “Customer” defined.~~ (NRS 703.025) ~~[“Customer” has the meaning ascribed to it in NRS 704.968.]~~

~~NAC 704.79609 “Distribution function” defined.~~ (NRS 703.025) ~~[“Distribution function” means the affiliate, division, department, section, part or unit of an electric distribution utility that:~~

~~—1. Is responsible for facilities for providing distribution and transmission services; and~~

~~—2. Performs distribution and transmission services.]~~

~~NAC 704.79611 “Distribution function operation” defined.~~ (NRS 703.025) ~~[“Distribution function operation” means the parts of the distribution function of an electric distribution utility that:~~

~~—1. Operate, direct, organize, provide or plan for distribution or transmission service;~~

~~—2. Administer distribution or transmission tariffs; or~~

~~—3. Process or execute distribution or transmission services transactions.]~~

NAC 704.79613 “Distribution service” defined. (NRS 703.025) [~~“Distribution service” means the service provided over the physical plant of an electric distribution utility delivering electricity from the transmission system to customers.~~]

NAC 704.79615 “Electric distribution utility” defined. (NRS 703.025) [~~“Electric distribution utility” has the meaning ascribed to it in NRS 704.970.~~]

NAC 704.79617 “Electric service” defined. (NRS 703.025) [~~“Electric service” has the meaning ascribed to it in NRS 704.971.~~]

NAC 704.79619 “Joint management employee” defined. (NRS 703.025) [~~“Joint management employee” means an officer, a director or a senior manager of an electric distribution utility who provides joint management services.~~]

NAC 704.79621 “Joint management services” defined. (NRS 703.025) [~~“Joint management services” means senior level oversight or governance of both the distribution function and the provider of last resort function of an electric distribution utility, but does not include the senior level oversight or governance of only the distribution function operation or provider of last resort function operation of an electric distribution utility.~~]

NAC 704.79623 “Joint support employee” defined. (NRS 703.025) [~~“Joint support employee” means an employee of an electric distribution utility who provides joint support services.~~]

NAC 704.79625 “Joint support services” defined. (NRS 703.025) [~~“Joint support services” means the property, facilities, equipment, systems, personnel, activities and functions used to provide administrative support to both the distribution function and the provider of last resort function of an electric distribution utility, including, without limitation, administrative services, financial management services, data processing, shareholder services, human resources, employee benefits and other similar administrative support services. The term does not include any administrative support services provided only to the distribution function operation or to the provider of last resort function operation of the electric distribution utility.~~]

NAC 704.79627 “Last resort service” defined. (NRS 703.025) [~~“Last resort service” means the electric service provided to customers by an electric distribution utility or alternative seller designated by the commission pursuant to NRS 704.982 or 704.9829, respectively, to provide such service.~~]

NAC 704.79629 “Provider of last resort” defined. (NRS 703.025) [~~“Provider of last resort” means the entity or entities designated by the commission pursuant to NRS 704.982 or 704.9829 to provide last resort service.~~]

NAC 704.79631 “Provider of last resort function” defined. (NRS 703.025) [~~“Provider of last resort function” means the affiliate, division, department, section, part or unit of an electric distribution utility that aggregates the components of electric service that are necessary for the provision of electric service pursuant to NRS 704.982.~~]

NAC 704.79633 “Provider of last resort function operation” defined. (NRS 703.025) [~~“Provider of last resort function operation” means the parts of the provider of last resort function of an electric distribution utility that operate, direct, organize, provide or plan for the provision of last resort service.~~]

NAC 704.79635 “Utility provider of last resort” defined. (NRS 703.025) [~~“Utility provider of last resort” means an electric distribution utility that has been designated by the commission pursuant to NRS 704.982 to provide last resort service to customers.~~]

NAC 704.79637 Provision of last resort service; acceptance of additional customers; rates; proposed tariffs; application to reduce rates. (NRS 703.025)

~~[1. Before July 1, 2001, a utility provider of last resort may provide the last resort service or may obtain the services necessary to provide the last resort service from unaffiliated companies or through an affiliate of the utility created to provide such services.~~

~~— 2. On or after July 1, 2001, a utility provider of last resort shall continue to provide the last resort service to those customers as the provider of last resort until such time as the commission authorizes an alternative method for providing last resort service to those customers.~~

~~— 3. A provider of last resort shall accept additional customers beyond those initially assigned by the commission if:~~

~~— (a) The license of the alternative seller that was providing service to the customers is suspended or revoked by the commission; or~~

~~— (b) The customers are new customers who are unable or fail to obtain service from an alternative seller.~~

~~— 4. A provider of last resort shall provide all components of last resort service to its customers receiving last resort service at a rate that is established by the commission pursuant to NRS 704.9823.~~

~~— 5. Not later than 45 days before a class of customers may begin taking last resort service from a utility provider of last resort, and in any event, not later than June 1, 2001, the utility provider of last resort shall file proposed tariffs with the commission to provide last resort service to the class of customers. All other providers of last resort shall file proposed tariffs with the commission within 30 days after the date on which the commission designates the provider to be the provider of last resort. Such a tariff must include the rates, terms and conditions for the provision of last resort service by the provider.~~

~~— 6. A provider of last resort may, at any time, file an application with the commission to reduce the rate charged to a class or classes of customers receiving last resort service. The commission will approve such an application only if the commission makes a finding on the record that the approval of the application will not have any detrimental impact on the development of the competitive market and that the application to reduce rates is not based, in whole or in part, on any purpose that will or would likely have an anticompetitive effect on the competitive market in violation of the purposes set forth in NRS 703.151 and 704.979, or any regulations adopted pursuant thereto, relating to the establishment of a competitive market.]~~

NAC 704.79639 Customer rights and responsibilities. (NRS 703.025) ~~[Customers receiving last resort service have all the rights and responsibilities set forth in NAC 704.302 to 704.390, inclusive, and 704.79781 to 704.79849, inclusive.]~~

NAC 704.79641 Implementation schedule: Filing of proposed schedule; hearing and review; failure to file; designation of compliance officer. (NRS 703.025)

~~[1. Not later than March 1, 2001, or 30 days after the date on which the commission designates a utility provider of last resort pursuant to NRS 704.982, whichever occurs later, the utility provider of last resort shall file with the commission a detailed proposed implementation schedule pursuant to which the utility provider of last resort will begin providing last resort service.~~

~~— 2. The commission will conduct a hearing on a proposed implementation schedule filed by a utility provider of last resort and will review the proposed schedule, any comments and schedules proposed by other interested parties and any other supporting or contradicting evidence to determine:~~

~~—(a) The reasonableness of the proposed implementation schedule, in light of the relevant statutes and relevant regulations adopted by the commission;~~

~~—(b) Whether, and to what extent, the commission will have to make adjustments to the proposed implementation schedule; and~~

~~—(c) Whether, and to what extent, the commission will have to make adjustments to its regulations to accommodate the proposed implementation schedule.~~

~~—3. If a utility provider of last resort fails to file a detailed proposed implementation schedule in accordance with subsection 1, the utility provider of last resort must comply with the provisions of NAC 704.79645 to 704.79655, inclusive, upon the opening of the competitive market for the electric service.~~

~~—4. A utility provider of last resort shall designate an officer to evaluate and certify that the utility provider of last resort is in compliance with the provisions of an implementation schedule that has been approved by the commission, or with the provisions of NAC 704.79645 to 704.79655, inclusive, as appropriate.]~~

NAC 704.79643 Applicability to utility provider of last resort. (NRS 703.025) ~~[The provisions of NAC 704.79645 to 704.79655, inclusive, apply to a utility provider of last resort only:~~

~~—1. If the utility provider of last resort fails to file with the commission a detailed proposed implementation schedule as required by NAC 704.79641; or~~

~~—2. Upon order of the commission.]~~

NAC 704.79645 Employees of distribution function and provider of last resort function: Requirements and restrictions. (NRS 703.025)

~~[1. Except as otherwise provided in NAC 704.79649, the employees of a utility provider of last resort working in the distribution function of the utility shall operate and function independently of the employees of the utility working in the provider of last resort function of the utility. The employees of a utility provider of last resort working in the provider of last resort function of the utility shall operate and function independently of the employees of the utility working in the distribution function of the utility.~~

~~—2. Except as otherwise provided in NAC 704.79649:~~

~~—(a) An employee of a utility provider of last resort working in the distribution function of the utility shall not conduct or participate in any operations or activities of the provider of last resort function of the utility.~~

~~—(b) An employee of a utility provider of last resort working in the provider of last resort function of the utility shall not conduct or participate in any operations or activities of the distribution function of the utility.~~

~~—3. Except as otherwise provided in NAC 704.79649, the employees of a utility provider of last resort working in the distribution function of the utility must be located physically apart from the employees of the utility working in the provider of last resort function of the utility. To ensure its compliance with the provisions of this subsection, a utility provider of last resort may, without limitation:~~

~~—(a) Place such employees in separate secured office buildings; or~~

~~—(b) Construct and maintain separate and secured access areas and facilities within a shared office building.~~

~~—4. Except as otherwise provided in NAC 704.79649:~~

~~—(a) An employee of a utility provider of last resort working in the provider of last resort function of the utility shall not have physical access to:~~

~~— (1) The system control center for the distribution function of the utility; or~~
~~— (2) The communication facilities, computer systems, office space, file cabinets, office equipment used for the distribution or transmission system, or any other similar facilities or systems used for the distribution function operation of the utility,~~
~~if that physical access differs in any way from the physical access available to, and commonly used by, employees of alternative sellers.~~
~~— (b) An employee of a utility provider of last resort working in the provider of last resort function of the utility shall not have direct or indirect access to information concerning the distribution function operation of the utility which is not generally available to alternative sellers and the public, including, without limitation, information concerning:~~
~~— (1) Plans for construction or abandonment of transmission or distribution services or facilities;~~
~~— (2) Planned upgrades, downgrades or modifications of transmission or distribution services or facilities;~~
~~— (3) Planned transfers or sales of transmission or distribution facilities;~~
~~— (4) Maintenance of transmission or distribution facilities;~~
~~— (5) Plans or schedules for outages;~~
~~— (6) Ratings of transmission or distribution facilities; and~~
~~— (7) Interconnections for new customers which have been forecasted or scheduled, customer emergency curtailment, and any other market analysis report, survey, research or other type of forecast, planning or strategic report.~~
~~— (c) An employee of a utility provider of last resort working in the distribution function of the utility shall not directly or indirectly disclose to any employee working in the provider of last resort function of the utility, any information described in paragraph (b) of this subsection unless that information is generally available to alternative sellers and the public.~~
~~— (d) An employee of a utility provider of last resort working in the provider of last resort function of the utility shall not have direct or indirect access to information about a specific customer relating to his billing, usage or load shape, other than information relating to a customer receiving last resort service from the provider of last resort function of the utility, unless that information is acquired:~~
~~— (1) On terms and conditions that are applicable to all alternative sellers;~~
~~— (2) With the consent of the customer to whom the information relates; and~~
~~— (3) In accordance with the applicable rules and standards set forth by the commission for obtaining such information.~~
~~— (e) An employee of a utility provider of last resort working in the distribution function of the utility shall not directly or indirectly disclose to any employee working in the provider of last resort function of the utility, any information about a specific customer relating to his billing, usage or load shape unless that information is provided:~~
~~— (1) On terms and conditions that are applicable to all alternative sellers;~~
~~— (2) With the consent of the customer to whom the information relates; and~~
~~— (3) In accordance with the applicable rules and standards set forth by the commission for providing such information.~~
~~— (f) An employee of a utility provider of last resort working in the distribution function of the utility may directly or indirectly disclose to any employee working in the provider of last resort function of the utility information concerning customer billing, usage, load shape, goods,~~

~~services, purchases, sales or operations of the distribution function of the utility if that information is:~~

- ~~— (1) Not specific to any one particular customer;~~
- ~~— (2) Contemporaneously made available by the distribution function of the utility to all alternative sellers on the same terms and conditions; and~~
- ~~— (3) Made available for public inspection by the distribution function of the utility.]~~

NAC 704.79647 Employees of distribution function and provider of last resort function: Requirements and restrictions governing transfer. (NRS 703.025)

~~[1. A utility provider of last resort may transfer an employee of the utility working in the provider of last resort function or the distribution function of the utility to the other function if the transfer is not used as a means, and does not have the foreseeable effect, of:~~

- ~~— (a) Circumventing any provision set forth in NAC 704.79601 to 704.79665, inclusive, or~~
- ~~— (b) Adversely affecting effective competition.~~

~~2. A utility provider of last resort shall document each transfer of an employee working in the provider of last resort function or distribution function of the utility to the other function. A utility provider of last resort shall provide this information to the commission on a quarterly basis.~~

~~3. An employee working in the distribution function of a utility provider of last resort who is transferred to the provider of last resort function of the utility shall not:~~

- ~~— (a) Remove any data or information from the distribution function of the utility relating to the distribution function or customers of the distribution function unless that information is otherwise available to alternative sellers or customers of alternative sellers, or both;~~
- ~~— (b) Provide to the provider of last resort function, or any employee working in the provider of last resort function operation, any information relating to the distribution function or customers of the distribution function unless that information is otherwise available to alternative sellers or customers of alternative sellers, or both; or~~
- ~~— (c) Use any information relating to the distribution function of the utility, or customers of the distribution function, on behalf of the provider of last resort function of the utility unless that information is otherwise available to alternative sellers or customers of alternative sellers, or both.~~

~~4. Before an employee may transfer from the distribution function of a utility provider of last resort to the provider of last resort function of the utility, the employee must sign a statement acknowledging that he:~~

- ~~— (a) Has read and will abide by the restrictions set forth in this section; and~~
- ~~— (b) Understands that a violation of those restrictions may subject the utility to the penalties set forth in NAC 704.79665.]~~

NAC 704.79649 Joint management employees and joint support employees: Restrictions; commission may limit use or access. (NRS 703.025)

~~[1. Except as otherwise provided in this section, joint management employees and joint support employees of a utility provider of last resort:~~

- ~~— (a) May provide management services or support services for both functions;~~
- ~~— (b) Do not need to be separately located from either function; and~~
- ~~— (c) May have access to the facilities of and information in either function.~~

~~2. Except as otherwise provided in this section, a person employed as a joint management employee or joint support employee shall not engage in the provider of last resort function operation or in the distribution function operation of the utility provider of last resort. A utility~~

~~provider of last resort shall ensure that such an employee is not used to circumvent any provision of NAC 704.79601 to 704.79665, inclusive.~~

~~—3. Upon a complaint filed with the commission or its own motion, the commission may, after notice and hearing, limit the use or access of a joint management employee or joint support employee if the commission finds that such a limitation is necessary or appropriate to:~~

~~—(a) Mitigate actual or potential discrimination; or~~

~~—(b) Promote effective competition.]~~

NAC 704.79651 Solicitation of customers. (NRS 703.025)

~~[1. Except as otherwise provided in this section, a provider of last resort shall not, in any announcement, advertisement, statement or other form of communication to, with or intended for any of its customers or the public, directly or indirectly promote, recommend or otherwise urge or solicit a customer or the public to purchase electric service from the provider of last resort unless the provider of last resort, not later than 15 calendar days before its dissemination of such information, provides the information to the staff of the commission, the bureau of consumer protection in the office of the attorney general, all licensed alternative sellers and all other providers of last resort.~~

~~—2. Nothing in this section prohibits such communication between:~~

~~—(a) An electric distribution utility and any of its customers or the public if the communication only informs the customer or the public of the availability of last resort services from the utility if a customer does not or is unable to choose to get service from an alternative seller; or~~

~~—(b) The provider of last resort and its existing customers.]~~

NAC 704.79653 Distribution function: Standards of conduct; exceptions. (NRS 703.025)

~~[1. Except as otherwise provided in this section, the distribution function of a utility provider of last resort:~~

~~—(a) Shall provide service to the provider of last resort function of the utility only in accordance with the generally applicable distribution tariff, including, without limitation, price and other terms, for the distribution function of the utility.~~

~~—(b) Shall not discriminate in any manner between the provider of last resort function of the utility and an alternative seller.~~

~~—(c) When providing or procuring, or declining to provide or procure, any goods, services, facilities or information, or when establishing any standards, shall not provide, attempt to provide or conspire with any other person to provide:~~

~~——(1) A competitive advantage to the provider of last resort function of the utility; or~~

~~——(2) A competitive disadvantage to any alternative seller.~~

~~—(d) Shall offer to all alternative sellers any goods, services, facilities or information that the distribution function offers to the provider of last resort function of the utility or any affiliate of the utility.~~

~~—(e) Shall, at the same time that the distribution function offers to the provider of last resort function of the utility any goods, services, facilities or information, offer such goods, services, facilities or information to all alternative sellers. For the purposes of this paragraph, a distribution function shall provide information relating to its services and discounted services to alternative sellers through the mechanism established pursuant to paragraph (f) of this subsection.~~

~~—(f) Shall provide a mechanism which is accessible to the public, including, without limitation, an electronic bulletin board, through which an interested entity may promptly obtain pertinent information concerning:~~

- ~~— (1) Services provided by the distribution function; and~~
- ~~— (2) Any discounted services offered by the distribution function.~~
- ~~— (g) With regard to the provision of distribution services, shall not represent that it will treat the provider of last resort function of the utility, or any customer of or provider to the provider of last resort function, differently than it will treat an alternative seller and any customers of and providers to the alternative seller.~~
- ~~— (h) Shall not provide the provider of last resort function of the utility, or any customer of or provider to the provider of last resort function, with preferences over any alternative seller, or customers of or providers to an alternative seller, including, without limitation, preferences relating to the terms and conditions of service or pricing, or to the timing of service.~~
- ~~— (i) Shall apply any tariff provision that allows for discretion in its application in the same manner to the provider of last resort function of the utility as the distribution function applies the tariff provision to an alternative seller, and the customers of and providers to an alternative seller.~~
- ~~— (j) Shall strictly enforce mandatory tariff provisions to the provider of last resort function of the utility.~~
- ~~— (k) Shall not condition or otherwise tie the provision of any service or the availability of any discounts, rates, other charges, fees, rebates or waiver of terms and conditions to the taking of any goods or services from the provider of last resort function of the utility.~~
- ~~— (l) Shall not give any appearance that a customer or provider will receive preferential treatment if the customer or provider conducts, or will conduct, business with the provider of last resort function of the utility.~~
- ~~— (m) Shall make any discount or waiver of all or part of a charge or fee available simultaneously to all market participants.~~
- ~~— 2. Nothing in this section applies to the joint management services and joint support services of a utility provider of last resort, if such services are not used as a means of, and do not have the foreseeable effect of:~~
 - ~~— (a) Circumventing the standards of conduct set forth in NAC 704.79601 to 704.79665, inclusive;~~
 - ~~— (b) Discriminating in favor of the provider of last resort function of the utility provider of last resort or against any alternative seller; or~~
 - ~~— (c) Adversely affecting effective competition.]~~

NAC 704.79655 Maintenance of books, records and accounts; guidelines for allocating revenues and charges. (NRS 703.025)

- ~~[1. A utility provider of last resort:~~
 - ~~— (a) Shall maintain books, records and accounts for its distribution function and its provider of last resort function in accordance with this section.~~
 - ~~— (b) Shall keep the books, records and accounts of its distribution function separate from the books, records and accounts of its provider of last resort function.~~
 - ~~— (c) Shall acquire for its provider of last resort function those distribution services necessary to serve its designated provider of last resort load under the tariff approved by the commission and shall account for all transactions between its distribution function and its provider of last resort function.~~
- ~~— 2. In accordance with its implementation schedule approved by the commission pursuant to NAC 704.79641, or upon order of the commission, as appropriate, a utility provider of last resort~~

~~shall submit to the commission for approval written guidelines consistent with NAC 704.79601 to 704.79665, inclusive, for allocating revenues and charges between the distribution function of the utility and its provider of last resort function. The guidelines must provide, without limitation, for the provider of last resort function of the utility taking and paying for distribution and transmission services from the distribution function of the utility under the generally applicable tariffs of the distribution function of the utility. Unless the commission otherwise orders, expenses and revenues that are attributable to joint management services and joint support services must be allocated to the distribution function and the provider of last resort function on the basis of a ratio of labor expense that is equal to the proportion that the labor expense directly assignable to the distribution function, or to the provider of last resort function, bears to the total combined labor expense directly assignable to both the distribution function and the provider of last resort function.~~

~~— 3. A utility provider of last resort shall comply with the provisions of subsection 1 not later than June 1, 2001.]~~

NAC 704.79657 Selection of alternative seller to provide last resort service. (NRS 703.025)

~~[If an alternative seller is selected to provide last resort service, customers receiving last resort service who are not assigned to the alternative seller selected to provide last resort service must be served by a utility provider of last resort under the same terms and conditions that existed for the provision of last resort service to those customers immediately before the selection of the alternative seller to provide last resort service.]~~

NAC 704.79659 Violations: Complaint. (NRS 703.025) ~~[Any person may complain to the commission or a provider of last resort in writing, setting forth any act or thing allegedly done or not done by the provider of last resort, or any employee thereof, which is alleged to be in violation of NAC 704.79601 to 704.79665, inclusive.]~~

NAC 704.79661 Violations: Procedure for processing complaints; log of complaints. (NRS 703.025)

~~[1. Upon receiving an oral or a written complaint, a provider of last resort shall forthwith refer the complaint to a designated representative of the provider of last resort, who shall:~~

~~— (a) Acknowledge receipt of the complaint in writing to the complainant within 5 business days after receiving the complaint;~~

~~— (b) Prepare a written summary of the complaint, which includes, without limitation:~~

~~— (1) The name of the complainant; and~~

~~— (2) A detailed report of the facts as set forth in the complaint, including, without limitation:~~

~~— (I) The relevant dates;~~

~~— (II) The names of the employees alleged to be involved; and~~

~~— (III) The details of the claim;~~

~~— (c) Conduct a preliminary investigation of the complaint; and~~

~~— (d) Communicate the results of the preliminary investigation, including, without limitation, a description of any course of action that was or will be taken as a result of the investigation, in writing to the complainant not more than 20 business days after the designated representative received the complaint.~~

~~— 2. A provider of last resort shall:~~

~~— (a) For all new, pending and resolved complaints, maintain a log of the complaints filed with the provider of last resort pursuant to this section; and~~

- ~~—(b) Make the log available to the commission and the bureau of consumer protection in the office of the attorney general not more than 10 business days after the end of each month.~~
- ~~—3. A log maintained by a provider of last resort pursuant to this section must include, without limitation:~~
 - ~~—(a) A written summary of each complaint; and~~
 - ~~—(b) A written summary of the manner in which each complaint was resolved or, if the complaint has not been resolved, an explanation of the reason why the complaint is still pending.]~~

NAC 704.79663 Violations: Investigation of complaint; notice and hearing. (NRS 703.025)

- ~~[1. The commission will investigate any complaint it receives concerning an alleged violation of NAC 704.79601 to 704.79665, inclusive.~~
- ~~—2. Upon the request of a complainant who is a current or former employee of a provider of last resort, the commission will maintain the confidentiality of the identity of the complainant until the end of its investigation, or longer if the commission deems that such confidentiality is necessary or appropriate.~~
- ~~—3. If the commission determines that probable cause exists for the complaint, the commission will:~~
 - ~~—(a) Order that a hearing be held;~~
 - ~~—(b) Provide notice of the hearing to the parties to the complaint; and~~
 - ~~—(c) Conduct the hearing as it would conduct any other hearing.]~~

NAC 704.79665 Enforcement of provisions or order of commission; penalties. (NRS 703.025, 704.979) ~~[After a hearing has been held pursuant to NAC 704.79663 the commission may, to enforce the provisions of NAC 704.79601 to 704.79665, inclusive, or any order of the commission relating thereto:~~

- ~~—1. For a utility provider of last resort, assess a penalty against the utility pursuant to NAC 704.7919;~~
- ~~—2. For any other provider of last resort, assess a penalty against the provider pursuant to NAC 704.79757; and~~
- ~~—3. Apply any other appropriate remedy to, or assess any other appropriate penalty against, the utility provider of last resort or other provider of last resort that is available to the commission.]~~

**Electric Service: Classification of Services as Potentially
Competitive Services**

NAC 704.79701 Definitions. (NRS 703.025, 704.976) ~~[As used in NAC 704.79701 to 704.79713, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.79703, 704.79705 and 704.79707 have the meanings ascribed to them in those sections.]~~

NAC 704.79703 “Electric service” defined. (NRS 703.025, 704.976) ~~[“Electric service” has the meaning ascribed to it in NRS 704.971.]~~

NAC 704.79705 “Noncompetitive service” defined. (NRS 703.025, 704.976) ~~[“Noncompetitive service” has the meaning ascribed to it in NRS 704.973.]~~

NAC 704.79707 “Potentially competitive service” defined. (NRS 703.025, 704.976) ~~[“Potentially competitive service” has the meaning ascribed to it in NRS 704.974.]~~

NAC 704.79709 Application. (NRS 703.025, 704.976)

- ~~[1. Any interested person may file an application to request that the commission classify an electric service as a potentially competitive service.~~

~~— 2. An application filed pursuant to subsection 1 must be submitted to the commission and must, in addition to the requirements set forth in NAC 703.535:~~

~~— (a) Describe and identify fully the electric service to be classified as a potentially competitive service, including, without limitation:~~

~~— (1) The technical and common names of the electric service.~~

~~— (2) The facilities and equipment that are or will be used to provide the electric service.~~

~~— (3) The components of electric service that are necessary to provide the electric service, other than those components for which classification as a potentially competitive service is being sought.~~

~~— (4) The geographic market area for which the classification of the electric service as a potentially competitive service is being sought.~~

~~— (5) The nature and extent of the market in which the electric service is or will be provided, including, without limitation:~~

~~— (I) The class of customers for that electric service.~~

~~— (II) The source of revenues for that electric service.~~

~~— (b) Provide all facts necessary to support classification of the electric service as a potentially competitive service, including, without limitation, facts that support the determination required pursuant to subsection 3 of NRS 704.976.~~

~~— (c) Contain an acknowledgment that the applicant has served a copy of the application upon the existing provider of the electric service sought to be reclassified as a potentially competitive service.~~

~~— 3. The geographic market area identified pursuant to subparagraph (4) of paragraph (a) of subsection 2 must not extend beyond the boundaries of the certificated service area of more than one vertically integrated electric utility, as that term is defined in NRS 704.975.~~

~~— 4. As used in this section, “person” means a natural person, any form of business or social organization and any other legal entity, including, without limitation, a corporation, partnership, association, trust, unincorporated organization, government, governmental agency or political subdivision of a government.]~~

~~**NAC 704.79711 Determination by commission.** (NRS 703.025, 704.976) [If the commission receives a request to classify an electric service as a potentially competitive service and that request meets the requirements set forth in NAC 704.79709, the commission will, if the electric service meets the requirements set forth in subsection 3 of NRS 704.976:~~

~~— 1. Determine that the service is a potentially competitive service; and~~

~~— 2. Establish an appropriate period in which a provider of noncompetitive service who provides the service determined to be potentially competitive must:~~

~~— (a) Cease to provide the service determined to be potentially competitive; or~~

~~— (b) Provide the service determined to be potentially competitive through an affiliate, as authorized pursuant to NRS 704.978 and 704.980.]~~

~~**NAC 704.79713 Failure of commission to determine that electric service is potentially competitive.** (NRS 703.025, 704.976) [If, after a request is made to the commission pursuant to NAC 704.79709, the commission does not determine that an electric service is a potentially competitive service, the commission will deem the electric service to be a noncompetitive service.]~~

Electric Service: Alternative Sellers of Potentially Competitive Services

NAC 704.79721 Definitions. (NRS 703.025, 704.977, 704.979) ~~[As used in NAC 704.79721 to 704.79759, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.79723 to 704.79741, inclusive, have the meanings ascribed to them in those sections.]~~

NAC 704.79723 “Affiliate” defined. (NRS 703.025, 704.977) ~~[“Affiliate” means any entity which provides energy or services related to the provision of energy in the United States and which controls, is controlled by or is under common control with an applicant for licensure as an alternative seller or a licensed alternative seller, as appropriate.]~~

NAC 704.79725 “Aggregation service” defined. (NRS 703.025, 704.977) ~~[“Aggregation service” has the meaning ascribed to it in NRS 704.966.]~~

NAC 704.79727 “Alternative seller” defined. (NRS 703.025, 704.977) ~~[“Alternative seller” has the meaning ascribed to it in NRS 704.967.]~~

NAC 704.79729 “Distribution service” defined. (NRS 703.025, 704.977) ~~[“Distribution service” means the service provided over the physical distribution plant of delivery from the transmission system to the end-use customer.]~~

NAC 704.79731 “Electric distribution utility” defined. (NRS 703.025, 704.977) ~~[“Electric distribution utility” has the meaning ascribed to it in NRS 704.970.]~~

NAC 704.79733 “End-use customer” defined. (NRS 703.025, 704.977) ~~[“End-use customer” means a retail customer of a potentially competitive service.]~~

NAC 704.79735 “Generation service” defined. (NRS 703.025, 704.977) ~~[“Generation service” has the meaning ascribed to it in NRS 704.972.]~~

NAC 704.79737 “Potentially competitive service” defined. (NRS 703.025, 704.977) ~~[“Potentially competitive service” has the meaning ascribed to it in NRS 704.974.]~~

NAC 704.79739 “Provider of last resort” defined. (NRS 703.025, 704.977) ~~[“Provider of last resort” means the entity designated by the commission pursuant to NRS 704.982 to provide electric service to end-use customers who are unable to obtain electric service from an alternative seller or who fail to select an alternative seller.]~~

NAC 704.79741 “Residential and small commercial customer” defined. (NRS 703.025, 704.977) ~~[“Residential and small commercial customer” means any customer who:~~

- ~~— 1. Receives residential electric service; or~~
- ~~— 2. Has an average monthly energy usage of less than 3,500 kilowatt hours over the last 12 months.]~~

NAC 704.79743 Application for license. (NRS 703.025, 704.977) ~~[A person who wishes to provide a potentially competitive service as an alternative seller must apply to the commission for a license to be an alternative seller. The application must include:~~

- ~~— 1. The legal name of the applicant and all other names under which the applicant is doing business in the United States;~~
- ~~— 2. The current telephone number, mailing address and physical street address of the applicant;~~
- ~~— 3. The type of business entity that the applicant is organized as and the date on which, and the place where, the business entity was formed;~~
- ~~— 4. A copy of each business license and certificate issued by this state and any local government within this state authorizing the applicant to conduct business in this state;~~
- ~~— 5. A list and description of all affiliates of the applicant that are located in the United States.~~

- ~~—6. The names and business addresses of:~~
- ~~—(a) The officers, directors or partners of the applicant; or~~
- ~~—(b) The members of the applicant if the applicant is a limited liability company.~~
- ~~—7. The telephone number of the department or person responsible for providing customer service for the applicant.~~
- ~~—8. The name, title and telephone number of the regulatory contact person for the applicant.~~
- ~~—9. The name, title and address of the registered agent of the applicant in Nevada for service of process.~~
- ~~—10. The most recent annual report filed with the Securities and Exchange Commission, if any.~~
- ~~—11. A disclosure of all:~~
- ~~—(a) Civil, criminal and regulatory sanctions and penalties imposed within the previous 5 years pursuant to any state or federal law or regulation relating to consumer protection on:~~
 - ~~—(1) The applicant or any affiliates thereof;~~
 - ~~—(2) Any officer, director or partner of the applicant, or any affiliate thereof; and~~
 - ~~—(3) If the applicant is a limited liability company, any member of the applicant; and~~
- ~~—(b) Felony convictions within the previous 5 years that relate to the business of the applicant or an affiliate thereof, of:~~
 - ~~—(1) Any officer, director or partner of the applicant or any affiliate thereof; and~~
 - ~~—(2) If the applicant is a limited liability company, any member of the applicant.~~
- ~~—12. A list of each potentially competitive service the applicant expects to offer, the date on which the applicant intends to begin marketing activities associated with the provision of each such service and the date on which the applicant expects to begin providing each such service.~~
- ~~—13. The names of the electric distribution utilities in whose service territories the applicant intends to market the potentially competitive services.~~
- ~~—14. A demonstration of the ability of the applicant to provide the potentially competitive services proposed in its application, including, without limitation, prior experience in the provision of those services and the qualifications of the technical personnel at the executive and managerial levels who will be responsible for the provision of the services.~~
- ~~—15. If the applicant intends to provide or market any potentially competitive service through a contractor:~~
 - ~~—(a) A description of each type of service to be provided or marketed through the contractor and of the group of customers to whom the service will be provided or marketed; and~~
 - ~~—(b) The name and telephone number of the contractor and a contact person for the contractor.~~
- ~~—16. If the applicant is applying to provide any generation or aggregation services, evidence of creditworthiness showing that the applicant is capable of complying with NAC 704.79745.~~
- ~~—17. If the applicant is currently providing, or has provided in the previous 5 years, any generation, aggregation or other potentially competitive service in any jurisdiction in the United States other than Nevada:~~
 - ~~—(a) A list of all applicable certificates, registrations and licenses, with the associated document numbers, currently held, or held in the previous 5 years, in those jurisdictions authorizing the applicant to provide electricity and services relating to the provision of electricity in those jurisdictions; and~~
 - ~~—(b) A brief description of the services provided in each such jurisdiction.~~

~~If the applicant is not currently providing, and has not provided in the previous 5 years, any generation, aggregation or other potentially competitive service in any jurisdiction in the United States other than Nevada, the applicant shall so state on the application.~~

~~—18. A toll-free number for the applicant's customer service.~~

~~—19. If the applicant is applying to provide any generation, aggregation or other potentially competitive service to residential and small commercial customers:~~

~~—(a) A statement of intent that the applicant will provide security to the electric distribution utility from which the alternative seller will be obtaining generation, aggregation or other potentially competitive services in an amount and of a type specified by the applicable regulations of the commission; and~~

~~—(b) A statement of intent that the applicant will provide to the commission copies of all brochures, labels and other informational statements as required by the applicable regulations of the commission.~~

~~—20. If the applicant or any of its affiliates has ever engaged in the provision of any electric service in this or any other state, a report of all instances of lapses in the standards of reliability within the previous 3 years that were determined to be the fault of the applicant or affiliate, including, without limitation, unplanned outages, failures to meet service obligations and any other deviations from the standards of reliability. The report must include for each instance of such a lapse:~~

~~—(a) A description of the lapse in the standards of reliability, including, without limitation, the duration and cause of the lapse;~~

~~—(b) The number of customers affected by the lapse;~~

~~—(c) Any reports, findings or issuances by regulators or any organization established to ensure the reliability of the electric system relating to the lapse;~~

~~—(d) A description of any penalties imposed on the applicant or affiliate because of the lapse; and~~

~~—(e) A statement of whether the problem that caused the lapse was solved and, if so, a description of the remedy.~~

~~—21. If the applicant plans to use an outside company to solicit individual customers on behalf of the applicant in person, by telephone or electronically:~~

~~—(a) The name and telephone number of the company; and~~

~~—(b) The name of the contact person for the company.]~~

NAC 704.79745 Bond rating or security deposit requirement; amount of security deposit.
(NRS 703.025, 704.977)

~~[1. Except as otherwise provided in subsection 2, an alternative seller that provides generation or aggregation service shall have and maintain a long term bond rating, or other senior debt rating, of at least BBB or an equivalent rating as determined by Standard & Poor's Ratings Services or another recognized debt rating service in the United States or Canada.~~

~~—2. In lieu of having and maintaining the long term bond rating or other senior debt rating required pursuant to subsection 1, an alternative seller that provides generation or aggregation service may maintain a security deposit that is made payable to the commission. The security deposit must be in the form of:~~

~~—(a) A renewable surety bond issued by a major insurance company; or~~

~~—(b) A guarantee with a guarantor possessing a credit rating of Baa2 or higher from Moody's Investors Service or BBB or higher from Standard & Poor's Ratings Services, Fitch IBCA or Duff & Phelps Credit Rating Company, except that if the commission determines that a material~~

~~change in the creditworthiness of the guarantor has occurred, the commission may require the alternative seller to use a different guarantor.~~

~~—3. The security deposit required pursuant to subsection 2 is an amount equal to the revenue required by a provider of last resort to provide service to the customers of the alternative seller for 2 months, except that the initial security deposit required is the greater of \$250,000 or an amount calculated by using the rates for service if provided by a provider of last resort multiplied by a good faith estimate of the expected load to be provided by the alternative seller during its first 2 months of operation. The alternative seller shall, every 6 months after the date on which it first provides service to customers, update the security deposit based on the average load of electricity it provided to its customers during that 6-month period.]~~

NAC 704.79747 Documentation required before requesting payment or providing service. (NRS 703.025, 704.977)

~~[1. At least 10 business days before requesting or accepting any fees, deposits or other payments of any kind from any residential and small commercial customer located in Nevada, a licensed alternative seller which will provide generation or aggregation service must file with the commission proof that the electric distribution utility serving the territory in which the alternative seller intends to provide service has authorized the alternative seller to file service request forms for distribution service pursuant to the distribution tariff of the electric distribution utility. Before providing any potentially competitive service, an alternative seller must file with the commission any other documentation that the commission requests regarding the provision of that service.~~

~~—2. The provisions of this section do not preclude a licensed alternative seller from advertising or accepting enrollments for any service that it has been licensed by the commission to sell before satisfying the requirements of subsection 1.]~~

NAC 704.79749 Contract with customer conditioned on compliance with provisions. (NRS 703.025, 704.977) ~~[Any contract entered into by an alternative seller with a customer must be conditioned on the compliance of the alternative seller with NAC 704.79721 to 704.79759, inclusive.]~~

NAC 704.79751 Compliance with certain rules, procedures and obligations. (NRS 703.025, 704.977) ~~[An alternative seller shall comply with all:~~

~~—1. Applicable rules and procedures of any governmental or private institution charged with ensuring the reliability of the electric system, including:~~

~~—(a) The Western System Coordinating Council;~~

~~—(b) The Western Regional Transmission Association;~~

~~—(c) The Southwest Regional Transmission Association;~~

~~—(d) The Northwest Regional Transmission Association;~~

~~—(e) The North American Electric Reliability Council;~~

~~—(f) The Federal Energy Regulatory Commission; and~~

~~—(g) Any other similar entity identified by the commission; and~~

~~—2. Obligations that the commission may impose to ensure sufficient availability of capacity of the alternative seller pursuant to subsection 2 of NRS 704.988.]~~

NAC 704.79753 Compliance with generally accepted technical protocols and regulations; exception. (NRS 703.025, 704.977) ~~[An alternative seller that applies to provide any potentially competitive service shall comply with generally accepted technical protocols and regulations relating to the provision of that service, as required by the commission, unless the service which~~

~~the alternative seller is providing is from another alternative seller licensed to provide that service in this state.]~~

NAC 704.79754 Metering services: Accordance with universal metering services tariff. (NRS 703.025, 704.979)

~~[1. An alternative seller that provides metering services shall provide those services in accordance with the terms and conditions of the universal metering services tariff.~~

~~— 2. An alternative seller that subcontracts for any metering services, including, without limitation, services relating to the reading of a meter and the management of data from a meter, shall ensure that all such services are provided in accordance with the terms and conditions of the universal metering services tariff.~~

~~— 3. As used in this section:~~

~~— (a) “Metering services” includes, without limitation:~~

~~— (1) Services for end-use customers, including:~~

~~— (I) The provision of meters to the end-use customer;~~

~~— (II) The operation and maintenance of a meter, including the installation, testing, calibration and repair of metering equipment; and~~

~~— (III) Reading meters, including reading meters for the purposes of billing, and performing checks on the reading of meters at the request of customers concerned that their meters were read in error; and~~

~~— (2) Services relating to management of data from a meter.~~

~~— (b) “Universal metering services tariff” means the tariff schedules applicable to metering and related services provided by licensed alternative sellers operating in this state which have been accepted by the commission pursuant to the docket of the commission entitled “Docket No. 97-8001.”]~~

NAC 704.79755 Certain changes in information on application to be reported to commission; prior authorization required for change of business name. (NRS 703.025, 704.977)

~~[1. A licensed alternative seller shall inform the commission of any change in the name, address or telephone number of the licensed alternative seller, and of any change of its registered agent in Nevada for service of process, within 20 business days after the change occurs.~~

~~— 2. A licensed alternative seller shall update the information contained in its application within 20 business days after a change in the information if the change:~~

~~— (a) Materially reduces the financial condition or technical capabilities of the licensed alternative seller; or~~

~~— (b) Involves any civil, criminal or regulatory sanctions or penalties that have been imposed by any state, or involves felony convictions in any state.~~

~~— 3. A licensed alternative seller shall not change its name or the name under which it conducts business in this state without obtaining the prior authorization of the commission.]~~

NAC 704.79757 Grounds for denial, revocation, suspension or limitation of license; penalties; notification; hearing; determination of commission; summary suspension; reapplication for license; pursuit of civil relief by person aggrieved. (NRS 703.025, 704.977, 704.979)

~~[1. After notice and opportunity for hearing, the commission may deny an application of an alternative seller for licensure, or if a license has been issued to the alternative seller, revoke, suspend or limit the license, or place the license on probationary status, if:~~

~~—(a) The alternative seller, or any officer, director or executive of the alternative seller, provides information in its application that is materially incomplete, false or misleading, or fails to update the application in a timely manner;~~

~~—(b) The alternative seller or any affiliate thereof, or any officer, director or executive of the alternative seller or affiliate, violates any applicable provision of NRS 704.965 to 704.990, inclusive, or any applicable regulation of the commission;~~

~~—(c) The alternative seller or any affiliate thereof has engaged in any activity that is inconsistent with effective competition relating to the provision of electric service;~~

~~—(d) The alternative seller or any affiliate thereof, or:~~

~~—(1) Any officer, director or partner of the alternative seller or affiliate; or~~

~~—(2) If the alternative seller is a limited liability company, any member of the alternative seller,~~

~~violates any state or federal law relating to consumer protection or is convicted of a felony related to the business of the alternative seller or affiliate;~~

~~—(e) The alternative seller or any affiliate thereof, or:~~

~~—(1) Any officer, director or partner of the alternative seller or affiliate; or~~

~~—(2) If the alternative seller is a limited liability company, any member of the alternative seller,~~

~~violates any nationally or regionally accepted standard relating to the reliability of the electric system; or~~

~~—(f) The alternative seller possesses physical or financial resources that are or have become inadequate to ensure compliance with all of its responsibilities pursuant to NRS 704.965 to 704.990, inclusive, or any applicable regulation of the commission, or if the services provided by the alternative seller under its license or its ability to perform the services which are the subject of its application are inadequate.~~

~~— 2. In addition to any other penalties that may apply, the commission may order a licensed alternative seller that violates any applicable provision of NRS 704.965 to 704.990, inclusive, or any applicable regulation of the commission, to abide by specific conditions ordered by the commission or to pay:~~

~~—(a) Compensation for individual complaints which are specific to the case against the alternative seller;~~

~~—(b) Restitution to all customers harmed;~~

~~—(c) A monetary fine in an amount intended to negate any profits made as a result of the violation of any provision of NRS 704.965 to 704.990, inclusive, or any applicable regulation of the commission, by the alternative seller; or~~

~~—(d) Compensation to the appropriate provider of last resort for an appropriate share of the cost of procuring capacity and energy incurred by the provider of last resort for customers of the alternative seller.~~

~~— 3. The commission may suspend the license of an alternative seller in accordance with NRS 233B.127 if the alternative seller fails to submit:~~

~~—(a) Any information required to be submitted pursuant to any applicable regulation of the commission; or~~

~~—(b) Any relevant information ordered by the commission,~~

~~until such time as the alternative seller submits the required information.~~

~~— 4. The commission will include in the notice which it issues for a hearing to be held pursuant to this section notification to:~~

~~—(a) The alternative seller that all electric distribution utilities from which the alternative seller obtains distribution service have been advised that they may be ordered to discontinue service to the alternative seller; and~~

~~—(b) The provider of last resort that the customers of the alternative seller may be transferred to the provider of last resort.~~

~~— 5. If the commission finds that there is probable cause that an alternative seller has violated any provision of this chapter or chapter 703 of NAC, the commission will:~~

~~—(a) Notify the alternative seller by certified mail and describe the evidence of the violation;~~

~~—(b) Issue a public notice for a hearing;~~

~~—(c) Hold a public hearing on the matter; and~~

~~—(d) If, based on the findings of fact and the evidence presented at the hearing, the commission determines that a violation has occurred, issue a decision which may include the imposition of penalties.~~

~~— 6. If the commission finds that public health, safety or welfare imperatively requires that emergency action be taken, the commission may, pursuant to subsection 3 of NRS 233B.127, order a summary suspension of the license of the alternative seller pending expedited proceedings for revocation of the license or other action to be taken against the alternative seller.~~

~~— 7. An alternative seller whose license has been revoked is not precluded from filing an application for a new license and attempting to demonstrate the fitness of the alternative seller and its ability to comply with all of the applicable regulations and rules of the commission.~~

~~— 8. Any person aggrieved by any violation by an alternative seller of any applicable regulation of the commission may pursue any civil relief that may be available under state or federal law, including, without limitation, private actions for enforcement of the applicable regulations of the commission, without regard to or first pursuing any remedies provided by the commission.]~~

NAC 704.79759 Application signed by authorized officer of applicant attesting to truth of information contained therein. (NRS 703.025, 704.977)

~~[1. An application for a license as an alternative seller must be signed by an officer of the applicant who has appropriate authority, under penalty of perjury, attesting that all information supplied on the application is true and correct and that, once licensed, the officer will ensure, to the best of his ability, that the alternative seller will comply with all applicable regulations of the commission.~~

~~— 2. The signature of the officer on an application constitutes a representation that:~~

~~—(a) The person signing the application has read the application;~~

~~—(b) To the best of his knowledge, there are good grounds to support the application; and~~

~~—(c) The information in the application is true to the best of his knowledge and belief.]~~

Electric Service: Annual Licensing Fee for Alternative Sellers

NAC 704.79761 Definitions. (NRS 703.025, 704.977) ~~[As used in NAC 704.79761 to 704.79773, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.79763 and 704.79765 have the meanings ascribed to them in those sections.]~~

NAC 704.79763 “Alternative seller” defined. (NRS 703.025, 704.977) ~~[“Alternative seller” has the meaning ascribed to it in NRS 704.967 and includes a provider of last resort to the extent that the provider is not a public utility.]~~

NAC 704.79765 “Provider of last resort” defined. (NRS 703.025, 704.977) ~~[“Provider of last resort” means an entity designated to provide electric service pursuant to NRS 704.982.]~~

NAC 704.79767 Rate; credit claim. (NRS 703.025, 704.977)

~~[1. The commission will levy upon each alternative seller subject to its jurisdiction, and collect therefrom, an annual licensing fee.~~

~~— 2. Except as otherwise provided in this section, the annual licensing fee is payable at the same rate as the rate used to assess public utilities for the use of the commission and the use of the consumer's advocate of the bureau of consumer protection in the office of the attorney general pursuant to NRS 704.033, based on gross revenues derived from jurisdictional sales of the alternative seller during the calendar year preceding the year in which the fee is payable. In no event will the annual licensing fee be less than \$10.~~

~~— 3. An alternative seller may claim a credit against the annual licensing fee for fees paid to regulated public utilities or other alternative sellers for services that are purchased for intrastate resale during the calendar year preceding the year in which the annual licensing fee is payable.~~

~~— 4. The annual licensing fee required to be paid pursuant to this section is in addition to, and not in lieu of, any other fee or assessment required to be paid by the alternative seller.]~~

NAC 704.79769 Revenue report form; payment; penalty. (NRS 703.025, 704.977)

~~[1. On or before June 1 of each year, the commission will mail revenue report forms to all alternative sellers, to the addresses on file with the commission. The revenue report form serves as notice of the commission's intent to collect an annual licensing fee, but failure on the part of the commission to notify any alternative seller does not invalidate the requirement of the alternative seller to pay the fee.~~

~~— 2. Each alternative seller shall complete the revenue report form, compute the amount of the fee owed, and return the completed form to the commission accompanied by the payment of the fee and any penalty due pursuant to the provisions of subsection 5.~~

~~— 3. The annual licensing fee is 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.~~

~~— 4. The annual licensing fee and any penalty computed by the alternative seller is subject to review and audit by the commission, and the amount of the fee and any penalty may be adjusted by the commission as a result of the audit and review.~~

~~— 5. Any alternative seller who fails to pay the annual licensing 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 1 percent of the total unpaid balance for each month or portion thereof that the fee is delinquent or \$10, whichever is greater. In no event will a penalty exceed \$1,000 for each delinquent payment.]~~

NAC 704.79771 Action by commission to collect fee or penalty. (NRS 703.025, 704.977)

~~[The commission may bring an appropriate action in its own name for the collection of any fee or penalty which is not paid pursuant to NAC 704.79767 and 704.79769.]~~

NAC 704.79773 Transfer to account for consumer's advocate. (NRS 703.025, 704.977)

~~[The commission will, on a quarterly basis, transfer to the account for the consumer's advocate in the bureau of consumer protection in the office of the attorney general that portion of the fees and penalties collected pursuant to NAC 704.79767, 704.79769 and 704.79771 which was assessed for the use of the consumer's advocate or which is attributable to that assessment.]~~

Electric Service: Consumer Protection Requirements for Alternative Sellers

NAC 704.79781 Definitions. (NRS 703.025, 704.977, 704.979, 704.985) ~~[As used in NAC 704.79781 to 704.79849, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.79783 to 704.79797 have the meanings ascribed to them in those sections.]~~

NAC 704.79783 “Customer” defined. (NRS 703.025, 704.977, 704.979, 704.985) ~~[“Customer” has the meaning ascribed to it in NRS 704.968.]~~

NAC 704.79785 “Deposit” defined. (NRS 703.025, 704.977, 704.979, 704.985) ~~[“Deposit” means security provided by a customer to an alternative seller to ensure payment for service provided by the alternative seller.]~~

NAC 704.79787 “Distribution tariff” defined. (NRS 703.025, 704.977, 704.979, 704.985) ~~[“Distribution tariff” means the standard tariff filed with the commission by an electric distribution utility.]~~

NAC 704.79789 “Division” defined. (NRS 703.025, 704.977, 704.979, 704.985) ~~[“Division” means the division of consumer complaint resolution of the commission.]~~

NAC 704.79791 “Electricity Facts label” defined. (NRS 703.025, 704.977, 704.979, 704.985) ~~[“Electricity Facts label” means a label of facts about electricity relating to each product offered by the alternative seller to residential and small commercial customers.]~~

NAC 704.79793 “Provider of last resort” defined. (NRS 703.025, 704.977, 704.979, 704.985) ~~[“Provider of last resort” means an entity designated by the commission pursuant to NRS 704.982 to provide electric service to end use customers who are unable to obtain electric service from an alternative seller or who fail to select an alternative seller.]~~

NAC 704.79795 “Residential and small commercial customer” defined. (NRS 703.025, 704.977, 704.979, 704.985) ~~[“Residential and small commercial customer” means any:~~
~~— 1. Customer who receives residential electric service; or~~
~~— 2. Customer with an average monthly energy usage less than 3,500 kilowatt hours over the last 12 months.]~~

NAC 704.79797 “Terms of Service brochure” defined. (NRS 703.025, 704.977, 704.979, 704.985) ~~[“Terms of Service brochure” means a brochure created by an alternative seller which sets forth the services which the alternative seller can provide to residential and small commercial customers and the terms pursuant to which the services will be provided to those customers.]~~

NAC 704.79799 Applicability of provisions. (NRS 703.025, 704.977, 704.979, 704.985) ~~[The provisions of NAC 704.79801, 704.79805, 704.79807 and 704.79811 to 704.79843, inclusive, apply to an alternative seller only when the alternative seller provides generation or aggregation services to residential and small commercial customers.]~~

NAC 704.79801 Security requirement: Cash deposit, financial guarantee bond or customer trust account; amount. (NRS 703.025, 704.977, 704.979, 704.985)

~~[1. At least 10 business days before submitting its first service request form to an electric distribution utility, a licensed alternative seller shall:~~
~~— (a) Post a cash security deposit of \$10,000 with the electric distribution utility;~~
~~— (b) Post a financial guarantee bond or other form of insurance in the amount of \$10,000, payable to the electric distribution utility; or~~

~~—(c) Open a customer trust account in the amount of \$10,000 in a bank or other financial institution which is federally insured or otherwise authorized to do business in this state.~~

~~—2. A financial guarantee bond posted as security pursuant to subsection 1 must carry an endorsement that allows the issuer of the bond or the insurer to pay such amounts, and in such a manner, as ordered by the commission. Any form of security provided pursuant to subsection 1 must be for the exclusive protection of residential and small commercial customers in Nevada.~~

~~—3. The security posted pursuant to this section must be increased by an amount equal to \$100 for each residential or small commercial customer of the alternative seller in excess of the first 100 such customers enrolled into the service of the alternative seller, as adjusted quarterly by the electric distribution utility. Additional deposits are not required after 1,000 such customers are enrolled. Upon request, a licensed alternative seller shall provide information on the number of its customers to the electric distribution utility in a timely manner.~~

~~—4. As used in this section, “customer trust account” means an account into which all revenues paid to an alternative seller are deposited and which is overseen by a trustee who pays the obligations of the alternative seller before paying any remaining revenues to the alternative seller.]~~

NAC 704.79803 Phone number for customer to report certain problems to be listed on bill.

(NRS 703.025, 704.977, 704.979, 704.985) ~~[An alternative seller offering generation or aggregation services shall list on each bill that the alternative seller sends to its customers for those services the telephone number of the electric distribution utility which customers may call 24 hours a day, 7 days a week to report outages and other safety-related issues relating to the distribution system of the electric distribution utility.]~~

NAC 704.79805 Deadlines for submission of certain documents to commission. (NRS 703.025, 704.977, 704.979, 704.985)

~~[1. At least 15 business days before an alternative seller submits its first service request form to an electric distribution utility, the alternative seller shall provide the commission with:~~

~~—(a) A copy of the Terms of Service brochure created by the alternative seller in accordance with NAC 704.79827 to 704.79835, inclusive; and~~

~~—(b) Copies of Electricity Facts labels which the alternative seller is required to include in a Terms of Service brochure pursuant to subsection 2 of NAC 704.79827 and in its advertisements pursuant to subsection 1 of NAC 704.79837, for each product offered by the alternative seller to residential and small commercial customers.~~

~~—2. After the market opens for potentially competitive services, no later than January 31 and July 31 of each year, an alternative seller shall provide the commission:~~

~~—(a) A current copy of the Terms of Service brochure created by the alternative seller in accordance with NAC 704.79827 to 704.79835, inclusive; and~~

~~—(b) Current copies of the Electricity Facts labels which the alternative seller is required to include in a Terms of Service brochure pursuant to subsection 2 of NAC 704.79827 and in its advertisements pursuant to subsection 1 of NAC 704.79837,~~

~~for each product being offered by the alternative seller to residential and small commercial customers as of that January 31 and July 31, except that if no changes have been made in the brochure or label from the brochure or label most recently provided to the commission, the alternative seller shall submit a statement stating that fact in lieu of submitting the brochure or label.]~~

NAC 704.79807 Responsibilities regarding entity contracted with to solicit customers.

(NRS 703.025, 704.977, 704.979, 704.985) ~~[If an alternative seller that offers generation~~

~~service, aggregation service or any other potentially competitive service to residential and small commercial customers has contracted with a separate entity to solicit individual customers, in person, by telephone or electronically, on behalf of the alternative seller, the alternative seller shall ensure that the entity:~~

- ~~— 1. Clearly advises the customers which it contacts that the entity is marketing on behalf of the alternative seller;~~
- ~~— 2. Complies with all applicable laws, decisions and orders of the commission; and~~
- ~~— 3. Includes the name of the alternative seller on all advertising, marketing and billing materials, and communications of the entity relating to the alternative seller.]~~

NAC 704.79809 Certifications regarding personnel who enter premises of customer. (NRS 703.025, 704.977, 704.979, 704.985) ~~[An alternative seller that offers any potentially competitive service which requires its personnel to enter onto the premises of a customer shall, at least 30 days before the date on which the provision of the potentially competitive service will commence, certify that the personnel have the training and knowledge to comply with the generally accepted technical protocols approved by the commission that are applicable to the service to be provided.]~~

NAC 704.79811 Authorization of customer to be obtained before submitting service request form; retention and contents of evidence of authorization. (NRS 703.025, 704.977, 704.979, 704.985)

~~[1. Before submitting a service request form to an electric distribution utility on behalf of a new customer pursuant to the distribution tariff of the electric distribution utility, an alternative seller shall obtain the authorization of the customer, in writing, via electronic mail or over the telephone, for the alternative seller to submit the service request form to the electric distribution utility on behalf of the customer.~~

~~— 2. An alternative seller shall retain evidence of the authorization of a customer obtained pursuant to subsection 1, including, without limitation, copies of the written authorization, authorizations transmitted via electronic mail, tapes of the phone conversation or other similar evidence, for at least 12 months. The evidence must contain:~~

- ~~— (a) The name and address of the customer;~~
- ~~— (b) The date on which the authorization was obtained;~~
- ~~— (c) The name of the product, pricing plan or service that is being subscribed; and~~
- ~~— (d) An acknowledgement that the alternative seller has informed the customer of all applicable switching fees, minimum contract terms, usage requirements and penalties for canceling the product, plan or service before the end of the minimum term of the contract.]~~

NAC 704.79813 Distribution of Terms of Service brochure; cancellation of contract by customer; notification of change in charges. (NRS 703.025, 704.977, 704.979, 704.985) ~~[An alternative seller shall:~~

~~— 1. Provide a Terms of Service brochure which it creates pursuant to NAC 704.79827 to 704.79835, inclusive:~~

~~— (a) Upon receiving the authorization of a new customer for the alternative seller to provide service to that customer pursuant to NAC 704.79811, to the new customer at least 3 days before the alternative seller submits a service request form on behalf of the customer to an electric distribution utility pursuant to the distribution tariff of the electric distribution utility;~~

~~— (b) To each of its customers at least annually;~~

~~— (c) To any person upon request;~~

- ~~—(d) In English or Spanish, as specified by the customer; and~~
- ~~—(e) In an electronic or a printed form, if requested by the customer.~~
- ~~—2. Allow a customer to cancel, without a fee or penalty, any contract within 5 business days after the customer receives the Terms of Service brochure from the alternative seller.~~
- ~~—3. Notify each customer in a conspicuous written statement entitled “Notice of New Terms” of any changes in prices, fees or other charges at least 10 business days before the date on which the change is to take effect.]~~

NAC 704.79815 Maximum amount of customer deposit, interest and late fees; reasons for return of deposit; calculation of bill based on estimated usage allowed in certain circumstances. (NRS 703.025, 704.977, 704.979, 704.985)

~~[1. An alternative seller shall not collect a deposit from a customer which exceeds an amount equal to 150 percent of the estimated average monthly charge which the alternative seller will collect from the customer. If the customer has made timely payments to an alternative seller for 12 consecutive months, the alternative seller shall return any deposit paid by a customer to the customer, including interest calculated at the rate set forth in NRS 704.655 for customer deposits.~~

~~—2. An alternative seller shall not charge interest or late fees which are in excess of 1.5 percent of the amount due per month.~~

~~—3. An alternative seller shall return any deposits and release a customer from any obligations that result from the early termination of a contract if:~~

~~—(a) The license of the alternative seller is suspended or revoked; or~~

~~—(b) If the customer moves to a new residence which is outside of the territory served by the alternative seller.~~

~~—4. When circumstances beyond the control of an alternative seller are present, the alternative seller may calculate the bill of a customer based upon an estimated usage of the customer. In calculating a bill based upon estimated usage, the alternative seller shall consider:~~

~~—(a) The usage of the customer during the same month of the preceding year, if applicable;~~

~~—(b) Any change in temperature from the preceding month;~~

~~—(c) The usage of the customer during the preceding month, if applicable; and~~

~~—(d) Seasonal load factors.~~

~~The alternative seller shall notify the customer of the circumstances that caused the bill to be estimated. Circumstances beyond the control of the alternative seller, include, without limitation, severe weather, the presence of an animal on the premises of the customer which prevents an employee of the alternative seller from reading the meter without risk of injury and any other circumstance which makes it unreasonably difficult to read the meter of the customer.~~

~~—5. If an alternative seller calculates a bill of a customer based on the estimated usage pursuant to subsection 4, the alternative seller shall adjust the estimated usage of a customer upon the first reading of the meter of the customer after an estimated reading was made.]~~

NAC 704.79817 Toll-free telephone number to be available to customers. (NRS 703.025, 704.977, 704.979, 704.985) ~~[An alternative seller shall have a toll free telephone number which its customers can call during specified hours to get answers to their questions or to make complaints about their bills.]~~

NAC 704.79819 Notice to customer when service is declined; reasons to be disclosed upon request. (NRS 703.025, 704.977, 704.979, 704.985) ~~[If an alternative seller declines to provide service to a customer, the alternative seller shall inform the customer of his right to obtain a written statement from the alternative seller disclosing the reasons why the alternative seller~~

~~declined to provide the service. Upon the verbal or written request of a customer, an alternative seller shall disclose its reasons for declining to provide the service to the customer in writing within 3 business days after receiving the request.]~~

NAC 704.79821 Notification of cancellation: Information to be included. (NRS 703.025, 704.977, 704.979, 704.985) ~~[At least 20 business days before an alternative seller may cancel a contract with a customer, the alternative seller shall send notification of cancellation to the customer which includes:~~

- ~~—1. The reason for the cancellation of the contract.~~
- ~~—2. The actions, if any, that the customer may take to avoid the cancellation of the contract.~~
- ~~—3. If the customer is in default, the amount of all fees or charges which will be assessed against the customer as a result of the early termination of the contract, if any, as set forth in the Terms of Service brochure provided to the customer at the time that the contract was executed, as updated pursuant to the most recent notice of new terms sent to the customer by the alternative seller pursuant to subsection 3 of NAC 704.79813.~~
- ~~—4. Any amount overdue.~~
- ~~—5. A toll-free telephone number which the customer can use to call the alternative seller to discuss the notice of cancellation or to file a complaint, and the following statement:~~

~~If you are not satisfied with our response to your inquiry or complaint, you can contact the Public Utilities Commission of Nevada and file a complaint by calling or writing to the Consumer Complaint Resolution Division of the Public Utilities Commission in Carson City or Las Vegas.~~

~~The statement must include the current telephone numbers and mailing addresses for the commission:~~

- ~~—6. A statement that informs the customer of his right to obtain services from another licensed alternative seller or a provider of last resort, and that information about other alternative sellers or the provider of last resort can be obtained from the division and the provider of last resort.~~
- ~~—7. If a deposit is being held by the alternative seller on behalf of the customer, a statement that the deposit will be refunded to the customer or applied against the final bill of the customer, or both.~~
- ~~—8. Notification advising the customer that if the customer does not select another alternative seller by a certain date, which must be at least 20 business days after the date on which the notice of cancellation is sent, the customer will be automatically assigned to a provider of last resort for service.~~
- ~~—9. The availability of deferred payment or other billing arrangements from the alternative seller, and the availability of any state or federal payment assistance programs and information on how to get further information about those programs.~~
- ~~—10. A description of the activities that the alternative seller will use to collect payment, including the use of debt collection agencies, small claims court and other legal remedies allowed by law, if the customer does not pay or make acceptable arrangements with the alternative seller. The alternative seller shall not state or imply that nonpayment by the customer will affect his ability to access the electric distribution system.]~~

NAC 704.79823 Preparation, maintenance and contents of records; submission of information to certain entities; certain information not to be disclosed; notification of pending termination upon customer request. (NRS 703.025, 704.977, 704.979, 704.985)

~~[1. An alternative seller shall prepare and maintain records for each customer for at least 2 years, or as long as available if less than 2 years. The records for a customer must contain information concerning:~~

- ~~— (a) Payment performance of the customer;~~
- ~~— (b) Usage of electric energy by the customer for each billing period;~~
- ~~— (c) The number of discontinuances and reestablishments of service to the customer;~~
- ~~— (d) The number of deposits which have been collected from and returned to the customer; and~~
- ~~— (e) The number and a general description of written complaints filed with the alternative seller by the customer.~~

~~— 2. An alternative seller shall, upon the request of the commission, submit to the commission or a provider of last resort, or both, a written summary of the information contained in the records kept by the alternative seller pursuant to subsection 1 relating to a particular customer.~~

~~— 3. An alternative seller shall, upon the request of another alternative seller which has received authorization from a customer for the other alternative seller to provide service to the customer, submit to the requesting alternative seller data on the monthly usage of the customer for the previous 12 months, or for as long as the alternative seller has provided service to the customer, whichever is shorter.~~

~~— 4. An alternative seller shall not publicly disclose or make available for sale any data about its customers which was provided to the alternative seller pursuant to a distribution tariff of an electric distribution utility.~~

~~— 5. Upon the request of a customer, an alternative seller shall notify a third person chosen by the customer of any pending termination of services to the customer.]~~

NAC 704.79825 Notification to commission of planned discontinuation of service. (NRS 703.025, 704.977, 704.979, 704.985) ~~[An alternative seller shall notify the commission at least 45 business days before any planned discontinuation by the alternative seller of service to residential and small commercial customers.]~~

NAC 704.79827 Terms of Service brochure: Required information. (NRS 703.025, 704.977, 704.979, 704.985) ~~[For each service or product which it offers, an alternative seller shall create a Terms of Service brochure which must prominently present:~~

~~— 1. A statement on the front of the brochure written in Spanish that the brochure contains important information and that the information contained within the brochure may be obtained in Spanish by calling a specified toll-free telephone number.~~

~~— 2. A box in bold font on the front or back page of the brochure which contains an Electricity Facts label that includes the following disclosures for each product and pricing plan, regardless of actual price structure:~~

~~— (a) For the total cost of electric services, exclusive of applicable taxes:~~

~~— (1) If the billing is based on rates that will not vary by season or time of day, the average price reflecting all recurring charges, expressed as cents per kilowatt hour rounded to the nearest one-tenth of a cent for each usage level as follows:~~

~~— (I) The average price for residential customers must be shown for 500, 1,000 and 1,500 kilowatt hours per month; and~~

~~— (II) The average price for small commercial customers must be shown for 1,500, 2,500 and 3,500 kilowatt hours per month; and~~

~~— (2) If the billing is based on rates that vary by season or time of day, the average price, reflecting all recurring charges, expressed as cents per kilowatt hour rounded to the nearest one-tenth of a cent for each usage level as follows:~~

~~————(I) The average price for residential customers must be shown for 500, 1,000 and 1,500 kilowatt hours per month; and~~

~~————(II) The average price for small commercial customers must be shown for 1,500, 2,500 and 3,500 kilowatt hours per month, using a generic load profile for Nevada, as periodically determined by the commission, for residential and small commercial customers.~~

~~—(b) If the pricing plan envisions prices which will vary according to the season or time of day, the statement:~~

~~This is an example based on average usage patterns—your average electricity price will vary according to when you use electricity. See the Terms of Service brochure for actual prices.~~

~~The statement must also identify on peak times and seasons, and the location of the actual prices within the brochure.~~

~~—(c) If the pricing plan envisions prices which will vary during the term of the contract because of factors other than season and time of day, the statement:~~

~~This is an example based on average contract prices—your average electricity price will vary according to (insert description of the basis for and the frequency of price changes during the contract period). See the Terms of Service brochure for actual prices.~~

~~The statement must also identify the location of the actual prices within the brochure.~~

~~—(d) If the price of the contract will not vary, the phrase “fixed price” and the length of time for which the price will be fixed.~~

~~—(e) If billing is based on the season or time of day, the on-peak seasons or times.~~

~~—(f) A statement as to whether there is a minimum contract term, a minimum usage requirement, start up fee or any minimum of fixed charges.~~

~~—(g) A statement as to whether there are penalties to cancel service before the end of the minimum term of the contract.~~

~~—3. If the alternative seller requires deposits from its customers, a description of the conditions that will trigger a request for a deposit, the maximum amount of the deposit, a statement that interest will be paid on the deposit including the amount of the interest that will be paid, and the conditions under which the customer may obtain a refund of a deposit.~~

~~—4. The amount of any late payment fees, fees that may be charged to the customer for returned checks and any other fees and charges.~~

~~—5. The policies of the alternative seller regarding estimated meter readings, payment arrangements, late payments, payments in dispute and defaults by the customer.~~

~~—6. A statement of the availability of any state or federal payment assistance programs and information on how to get further information about those programs.~~

~~—7. The policy of the alternative seller for handling disputes and complaints, which includes:~~

~~—(a) A toll-free telephone number that a customer can call for customer service and to register complaints; and~~

~~—(b) The statement:~~

~~If you are not satisfied with our response to your inquiry or complaint, you can contact the Public Utilities Commission and file a complaint by calling or writing to the Consumer Complaint Resolution Division of the Commission in Carson City or Las Vegas.~~

~~The statement must also include the current telephone numbers and mailing addresses of the commission for its offices in Carson City and in Las Vegas.~~

~~—8. All other material terms and conditions, including, without limitation, exclusions, reservations, limitations and conditions of the contract for services offered by the alternative seller.~~

~~—9. In a separate paragraph or box, in bold font type:~~

~~—(a) A description of the right of a new customer to cancel a contract within 5 business days after receiving the Terms of Service brochure sent to the customer after the alternative seller has obtained the customer's authorization to provide service to the customer, without penalty or further obligation; and~~

~~—(b) Instructions for canceling a contract, including the mailing address, telephone number and facsimile machine number which the customer must use to cancel the contract.~~

~~—10. If the contract imposes any costs on the customer other than energy usage charges, including, without limitation, switching fees and fixed monthly fees, or imposes any minimum requirements, including, without limitation, a fixed length contract or fees for early termination of the contract, a statement on the front of the brochure, in bold font type:~~

~~New customers have the right to cancel a contract within 5 business days after receiving this brochure—see (location of procedures for cancellation within the brochure).~~

~~—11. A statement informing the customer that, if the alternative seller declines to provide service to the customer, the customer has the right to request from the alternative seller a written statement of the reason for the denial of service, which the alternative seller must provide within 3 days after the customer requests the written statement.]~~

NAC 704.79829 Electricity Facts label: Pricing information. (NRS 703.025, 704.977, 704.979, 704.985) ~~[For pricing information disclosed by an alternative seller in an Electricity Facts label included in a Terms of Service brochure pursuant to NAC 704.79827:~~

~~—1. The value of any credits or gifts provided to a customer which do not recur monthly may be stated in plain language on a separate line within the Electricity Facts label, but the alternative seller shall not factor the value of such credits and gifts in the average charges of the customer.~~

~~—2. If an alternative seller combines the charges for electric services with charges for any other product, the alternative seller shall:~~

~~—(a) If the electric services are sold separately from the other products, disclose the total price for electric services separately from other products; and~~

~~—(b) If the alternative seller does not permit a customer to purchase the electric services without purchasing the other products, state the total charges for all products as the price of the total electric services.~~

~~—3. If the Terms of Service brochure created by an alternative seller is for a product which is available exclusively or primarily to residential and small commercial customers, the alternative seller need only disclose price information for the usage levels of the targeted customer class.]~~

NAC 704.79831 Electricity Facts label: Form. (NRS 703.025, 704.977, 704.979, 704.985) ~~[An Electricity Facts label that must be included in a Terms of Service brochure by an alternative seller pursuant to NAC 704.79827 must be:~~

- ~~— 1. Presented in a standard format as shown in an example of the label that is available upon request from the commission;~~
- ~~— 2. No less than 5 inches in width and 2 inches in height; and~~
- ~~— 3. Approved by the commission before the alternative seller may disseminate the label.]~~

NAC 704.79833 Disclosure of effect of services related to conservation of electricity on cost of electricity. (NRS 703.025, 704.977, 704.979, 704.985) ~~[If an alternative seller offers services related to the conservation of electricity in conjunction with electricity services, the alternative seller may include in the Terms of Service brochure a separate price disclosure based on the effect of these services on the cost of electricity for climates and typical dwellings in Nevada.]~~

NAC 704.79835 Supporting data to be filed with commission before certain claims may be made in Terms of Service brochure. (NRS 703.025, 704.977, 704.979, 704.985) ~~[If an alternative seller wishes to use advertisements and marketing materials in a Terms of Service brochure that make any claims regarding fuel mix or environmental characteristics, the alternative seller must file data supporting those claims with the commission before the service may be offered.]~~

NAC 704.79837 Printed advertisements and marketing materials: Information required; form. (NRS 703.025, 704.977, 704.979, 704.985) ~~[Printed advertisements in general circulation newspapers and periodicals, direct mail marketing materials and Internet advertisements of an alternative seller that are directed at residential and small commercial customers must conform to the following:~~

- ~~— 1. Except as otherwise provided in this section, advertisements and marketing materials that make any claims regarding price or cost competitiveness must include an Electricity Facts label in a bold font box, which contains, without limitation, the information set forth in paragraphs (a), (f) and (g) of subsection 2 of NAC 704.79827. The label must conform to the requirements set forth in NAC 704.79829 and must be not less than 3 inches in width and 2 inches in height.~~
- ~~— 2. Except as otherwise provided in this section, if a printed advertisement that is less than 6 1/2 inches in width is used in general circulation newspapers and periodicals, an alternative seller may include the following statement in lieu of including an Electricity Facts label as required by subsection 1:~~

~~For a copy of important standardized information and contract terms regarding this product, call (name and telephone number of the alternative seller or his agent).~~

~~An alternative seller or his agent shall provide a Terms of Service brochure relating to the service or product being advertised to each person who contacts the alternative seller or his agent in response to this statement.~~

- ~~— 3. If an alternative seller targets advertisements and marketing material exclusively or primarily to residential customers or small commercial customers, the alternative seller need only disclose price and policy information for the targeted customer class.]~~

NAC 704.79839 Statement to be included in television and radio advertisements. (NRS 703.025, 704.977, 704.979, 704.985)

~~[1. An alternative seller shall include the following statement in any television or radio advertisement that makes a claim about price or cost competitiveness for an electricity product from the alternative seller:~~

~~You can obtain an Electricity Facts label that will allow you to compare the price and terms of this product with others. Call (name and telephone number of the alternative seller) for your Electricity Facts label.~~

~~— 2. An alternative seller shall provide an Electricity Facts label which the alternative seller is required to include in a Terms of Service brochure to each person who contacts the alternative seller in response to the statement set forth in subsection 1.]~~

NAC 704.79841 Billing of customers: Issuance and contents. (NRS 703.025, 704.977, 704.979, 704.985)

~~[1. Any printed or electronic communication from an alternative seller or his agent to a residential customer or small commercial customer that informs the customer about the current amount due by the customer on his current account or that confirms an automated billing transaction on the current account of the customer:~~

~~— (a) Must be issued no less frequently than monthly; and~~

~~— (b) Must list the cost of noncompetitive services according to the actual charges that the alternative seller is paying to the electric distribution utility.~~

~~— 2. An alternative seller shall include on the front page of each printed electric service bill or on the first section of each electronically communicated electric service bill sent to a residential customer or small commercial customer:~~

~~— (a) The name and address of the alternative seller and the number of the license issued to the alternative seller by the commission;~~

~~— (b) The service address and account number of the customer;~~

~~— (c) The name of the product or pricing plan from the alternative seller for which the customer is being charged;~~

~~— (d) The service period for which the bill is rendered;~~

~~— (e) The date on which the bill was rendered;~~

~~— (f) The date by which payment from the customer must be received by the alternative seller to avoid a late charge or other collection action;~~

~~— (g) The type of meter used by the customer and the identification number of the meter;~~

~~— (h) A statement as to whether the bill is based on a meter reading by the alternative seller, a meter reading by the customer or an estimated reading of the meter. If the bill is based on an estimated reading of the meter, the bill must conspicuously disclose that fact;~~

~~— (i) The meter readings for the beginning and end of the billing period;~~

~~— (j) The total current charges, balances on the immediately preceding bill, payments made since the preceding bill and the current balance due;~~

~~— (k) A conspicuous notice of any services or products being provided to the customer that have been added since the previous bill;~~

~~— 3. An alternative seller shall include on the front page of a printed bill, the back of the first page of the printed bill or the front of the next separate page of the printed bill, and in all electronic communications:~~

~~— (a) A statement describing the policies of the alternative seller concerning:~~

~~— (1) Past due payments;~~

- ~~— (2) Applicable late fees;~~
- ~~— (3) Methods by which the customer can make payments; and~~
- ~~— (4) Disputed bills.~~
- ~~— (b) A statement of the consequences of nonpayment, specifying the time at which events occur, including, without limitation, when deposit requirements for the customer will be triggered and when a notice of cancellation of the contract will be mailed. The alternative seller shall include a disclosure as to whether the customer can negotiate a payment arrangement or may qualify for additional billing options.~~
- ~~— (c) A statement of charges for which the bill is rendered, including, an itemization of each element of the pricing structure or product showing the rate, charge and provider for each element and the total of all current charges, which will enable the customer to recreate each itemized charge and the total charges.~~
- ~~— (d) The total kilowatt-hours used and, if rates vary according to time of use, a usage profile.~~
- ~~— (e) A box or other typographically separated graphic labeled “Billing Facts” which contains:~~
 - ~~— (1) The average daily usage of the customer for the month being billed and for the same month of the previous year if the customer is at the same location, if applicable;~~
 - ~~— (2) The average unit price of the current electricity charge for the current billing period reflecting all recurring charges, but not including any nonrecurring credits, which is expressed as cents per kilowatt-hour rounded to the nearest one-tenth of a cent;~~
 - ~~— (3) A statement concerning the term of the contract and a reference to any applicable early termination charges; and~~
 - ~~— (4) A statement as to whether the contract price is a fixed price or a variable price. If the price is variable, the basis for the price variations must be stated, such as time of day or seasonal pricing or price that varies with some published index. If the price of electricity is fixed, the end of the term in which the prices will be fixed must be stated.~~
- ~~— (f) A toll-free number, in bold font type, that the customer can call during specified hours for inquiries and to make complaints about the bill.~~
- ~~— (g) A toll-free telephone number that the customer can call 24 hours a day, 7 days a week, to report power outages and concerns about the safety of the power system.~~
- ~~— (h) A statement that refers the customer to the appropriate Terms of Service brochure of the alternative seller for further information.]~~

NAC 704.79843 Public service announcements. (NRS 703.025, 704.977, 704.979, 704.985)
~~[An alternative seller shall, as required by the commission, provide brief public service announcements to the residential and small commercial customers of the alternative seller. The alternative seller shall provide the public service announcements to its customers:~~

- ~~— 1. On the billing statements of the customers;~~
- ~~— 2. As an insert in the billing statements of the customers; or~~
- ~~— 3. Via electronic media,~~

~~as specified by the commission.]~~

NAC 704.79845 Published materials: Structure, composition and inclusion of license number. (NRS 703.025, 704.977, 704.979, 704.985)
~~— [1. All printed advertisements, electronic advertising over the Internet, direct marketing materials, billing statements and Terms of Service brochures of an alternative seller must disclose information as follows:~~

- ~~— (a) All disclosures must be clear and understandable.~~

~~—(b) All disclosures must be written in plain, easily understood English or foreign language if the materials are written in a foreign language such as Spanish, by:~~

~~—(1) Using short words, sentences and paragraphs;~~

~~—(2) Using everyday words that have commonly understood meanings;~~

~~—(3) Not using technical terms, Latin or other foreign terms, except in those materials that are written in a foreign language such as Spanish, or words with obsolete meanings;~~

~~—(4) Using simple and active forms of verbs;~~

~~—(5) Using personal pronouns to refer to the contracting parties;~~

~~—(6) Not using double negatives; and~~

~~—(7) Not using sentences that include more than one condition.~~

~~—(c) All required disclosures must be in a type size of at least 10 points and in a color that clearly contrasts with the background colors.~~

~~—2. An alternative seller shall, upon receipt of a license to act as an alternative seller from the commission, include the number of the license in all of its printed advertisements, electronic advertising over the Internet, direct marketing materials, billing statements and Terms of Service brochures.}]~~

NAC 704.79847 Procedure for handling customer dispute; filing of complaint with commission. (NRS 703.025, 704.977, 704.979, 704.985)

~~[1. If a customer disputes any bill, charge or service from an alternative seller, the alternative seller shall promptly investigate the matter and report its determination to the customer. If the customer so requests, the report must be made to the customer in writing. In its report to the customer, an alternative seller shall inform the customer of his right to file a complaint with the division.~~

~~—2. If a customer is not satisfied with the determination made by an alternative seller concerning the dispute, the customer may file a complaint with the division.~~

~~—3. If a customer files a complaint against an alternative seller with the division pursuant to this section, the alternative seller may require the customer to pay any disputed amount to the alternative seller pending resolution of the complaint unless, at the request of the division, the alternative seller agrees to waive the requirement to pay the disputed amount.}]~~

NAC 704.79849 Failure to disclose required information. (NRS 703.025, 704.977, 704.979, 704.985)

~~[1. Each failure by an alternative seller to disclose information to a customer as required by NAC 704.79781 to 704.79849, inclusive, constitutes a separate failure to disclose the required information.~~

~~—2. Repeated failure by an alternative seller to disclose information to a customer as required by NAC 704.79781 to 704.79849, inclusive, may result in a revocation of the license of the alternative seller, after notice and opportunity for hearing.}]~~

Electric Service: Distribution

NAC 704.79851 Definitions. (NRS 703.025, 704.978) ~~[As used in NAC 704.79851 to 704.79921, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.79853 to 704.79871, inclusive, have the meanings ascribed to them in those sections.]~~

NAC 704.79853 “Alternative seller” defined. (NRS 703.025, 704.978) ~~[“Alternative seller” has the meaning ascribed to it in NRS 704.967.]~~

NAC 704.79855 “Distribution customer” defined. (NRS 703.025, 704.978) ~~[“Distribution customer” means:~~

- ~~—1. A licensed alternative seller;~~
- ~~—2. An end use customer that has an aggregated load of 100 megawatts or more and that has executed or intends to execute a service agreement for distribution service with an electric distribution utility; or~~
- ~~—3. An end use customer that has received approval from the commission to secure its own distribution service and that has executed or intends to execute a service agreement for distribution service with an electric distribution utility.]~~

~~NAC 704.79857 “Distribution facilities” defined. (NRS 703.025, 704.978) [“Distribution facilities” means those facilities used to provide distribution service.]~~

~~NAC 704.79859 “Distribution service” defined. (NRS 703.025, 704.978) [“Distribution service” means service provided over the physical distribution plant of an electric distribution utility to deliver electricity from the transmission system to end use customers.]~~

~~NAC 704.79861 “End-use customer” defined. (NRS 703.025, 704.978) [“End-use customer” means a retail customer of a potentially competitive service.]~~

~~NAC 704.79863 “Electric distribution utility” defined. (NRS 703.025, 704.978) [“Electric distribution utility” has the meaning ascribed to it in NRS 704.970.]~~

~~NAC 704.79865 “Potentially competitive service” defined. (NRS 703.025, 704.978) [“Potentially competitive service” has the meaning ascribed to it in NRS 704.974.]~~

~~NAC 704.79867 “Provider of last resort” defined. (NRS 703.025, 704.978) [“Provider of last resort” means the entity designated by the commission pursuant to NRS 704.982 to provide electric service to end use customers who are unable to obtain electric service from an alternative seller or who fail to select an alternative seller.]~~

~~NAC 704.79869 “Prudent utility practice” defined. (NRS 703.025, 704.978) [“Prudent utility practice” means:~~

- ~~—1. Any practice, method or act engaged in or approved by a significant portion of the electric utility industry for the time in which the practice is used; or~~
- ~~—2. Any practice, method or act which, in the exercise of reasonable judgment and in light of the facts known at the time that the decision was made, could be expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and efficiency, and practices and acts generally accepted in the Western System Coordinating Council region.]~~

~~NAC 704.79871 “Service territory” defined. (NRS 703.025, 704.978) [“Service territory” means the territory in which an electric distribution utility has responsibility to supply or make available noncompetitive services, as of December 31, 1999, and until such time that the commission changes the territory.]~~

~~NAC 704.79873 Documents to be filed with commission for approval. (NRS 703.025, 704.978) [An electric distribution utility shall file with the commission for approval:~~

- ~~—1. A tariff for distribution service which is consistent with NAC 704.79851 to 704.79921, inclusive;~~
- ~~—2. A service agreement which is consistent with NAC 704.79877; and~~
- ~~—3. A service request form which is consistent with NAC 704.79879.]~~

~~NAC 704.79875 Tariff for distribution services. (NRS 703.025, 704.978) [The tariff for distribution services which an electric distribution utility must file with the commission must set forth the terms and conditions pursuant to which the electric distribution utility will provide~~

~~distribution service over its distribution facilities within its service territory to distribution customers for the delivery of electricity.]~~

NAC 704.79877 Service agreement. (NRS 703.025, 704.978) ~~[A service agreement between an electric distribution utility and a distribution customer which the electric distribution utility must file with the commission must:~~

~~— 1. Incorporate all of the provisions of the tariff for distribution services of the electric distribution utility by reference.~~

~~— 2. Address the term of service, which must commence on the date specified in the service agreement and terminate:~~

~~— (a) On the date on which the distribution customer is no longer providing service within the service territory of the electric distribution utility;~~

~~— (b) On the date mutually consented to by the distribution customer and the electric distribution utility; or~~

~~— (c) As a result of default of the agreement as described in the service agreement, as appropriate.~~

~~— 3. Address the circumstances pursuant to which a party to the agreement will be considered to be in default under the terms of the agreement, including, without limitation, nonpayment and a material breach of a term of the service agreement, and must include mechanisms pursuant to which the parties to the agreement can cure a default, all of which the electric distribution utility must comply with before it may terminate service to the distribution customer.~~

~~— 4. Set forth the obligations of the distribution customer to the electric distribution utility, including, without limitation, the obligation of the distribution customer to:~~

~~— (a) Pay for service rendered to the distribution customer under the tariff for distribution services of the electric distribution utility and the service agreement, regardless of any default by an end-use customer to the distribution customer; and~~

~~— (b) Provide sufficient power for its customers, taking into account the losses in power that will occur. The service agreement must specify those situations in which deficiencies in the delivery of the service are such that back-up is permissible and in which deficiencies will be considered to be significant enough to result in a breach of the obligation of the distribution customer to provide power to its customers.~~

~~— 5. Establish the procedure pursuant to which the electric distribution utility will bill the distribution customer, and must specify where and when payments of bills must be made.~~

~~— 6. Address the limitation of liability between the parties to the service agreement and the requirements for indemnification.~~

~~— 7. Address the rights of the parties to the service agreement to assign and delegate rights and obligations under the service agreement.~~

~~— 8. State where all required notices must be sent.~~

~~— 9. Include a procedure for the resolution of disputes arising from the service agreement.~~

~~— 10. Include a procedure pursuant to which either party to the service agreement can initiate and conduct an audit of the relevant records of the other party.]~~

NAC 704.79879 Service request form. (NRS 703.025, 704.978) ~~[A service request form that an electric distribution utility must submit to the commission must require the distribution customer making the request for service to provide:~~

~~— 1. The name and address of the end-use customer;~~

~~— 2. The account number assigned by the distribution customer to the end-use customer;~~

~~—3. An identification number for the point of delivery of the service or any other information that will identify the point of delivery;~~

~~—4. The name and billing address of the distribution customer making the request for service; and~~

~~—5. Any other information that the commission determines to be necessary for the provision of distribution service from the electric distribution utility to the distribution customer.]~~

NAC 704.79881 Availability of service; nondiscrimination; standard distribution service. (NRS 703.025, 704.978) ~~[An electric distribution utility shall:~~

~~—1. Provide distribution service to all customers within its service territory under the terms and conditions of its tariff for distribution services filed with the commission.~~

~~—2. Provide distribution service in a nondiscriminatory manner and consistent with NAC 704.789 to 704.792, inclusive.~~

~~—3. Unless otherwise requested by a distribution customer pursuant to NAC 704.79883, provide firm distribution service to each end use customer in accordance with prudent utility practices.]~~

NAC 704.79883 Negotiated distribution option: Request for different type of service; petition to commission for arbitration; response to notice of petition. (NRS 703.025, 704.978)

~~[1. If a distribution customer requests a type of distribution service from an electric distribution utility other than firm distribution service which would be provided pursuant to subsection 3 of NAC 704.79881, the electric distribution utility shall attempt to negotiate with the distribution customer a definition of and rate for such a service. If the negotiations are successful, the electric distribution utility shall submit to the commission a request to amend its tariff for distribution services to include the service as negotiated. If an electric distribution utility amends its tariff for distribution service pursuant to this subsection to include a negotiated service, the electric distribution utility shall make the service available to all similarly situated distribution customers on a nondiscriminatory basis.~~

~~—2. No sooner than 90 days or later than 120 days after the date on which an electric distribution utility receives a request for a distribution service subject to negotiation pursuant to this section, the electric distribution utility or any other party to the negotiation may petition the commission to arbitrate any open issues. A party petitioning the commission to resolve an open issue pursuant to this subsection shall, at the time that it submits its petition, provide the commission with copies of all relevant documents, including, documents:~~

~~—(a) Concerning the unresolved issue and the position of each party to the negotiation with respect to that issue;~~

~~—(b) Demonstrating that the new service being requested will not impair the reliability of the distribution system of the electric distribution utility or raise the cost of distribution service which the electric distribution provides to other distribution customers; and~~

~~—(c) Concerning any other issues that were discussed and resolved by the parties to the negotiation.~~

~~—3. A party petitioning the commission to resolve an open issue pursuant to subsection 2 shall provide a copy of the petition and copies of any documentation included with the petition to the other parties to the negotiation no later than the date on which the commission receives the petition. Within 25 business days after the date on which the commission receives the petition, a party to the negotiations, other than the petitioning party, may respond to the petition and provide such additional information as that party determines is necessary.]~~

NAC 704.79885 Prerequisites to request for service. (NRS 703.025, 704.978)

~~[1. Before accepting for consideration a service request form from a distribution customer, an electric distribution utility shall verify that the distribution customer meets or is capable of meeting, or otherwise complying with, the requirements of this section and NAC 704.79887 and 704.79889.~~

~~— 2. A distribution customer which submits a service request form to an electric distribution utility must present with the service request form documentation that:~~

~~— (a) If the distribution customer is an alternative seller, the distribution customer is licensed by the commission; and~~

~~— (b) If the distribution customer is an end use customer, that the alternative seller of the distribution customer has been licensed by the commission.~~

~~— 3. A distribution customer shall submit a completed service agreement to the electric distribution utility for the electric distribution utility to consider.]~~

NAC 704.79887 Indicia of creditworthiness. (NRS 703.025, 704.978) ~~[A distribution customer must have and maintain one of the following indicia of its creditworthiness:~~

~~— 1. A long-term bond rating or other senior debt rating that is at least BBB or an equivalent rating. The rating must be determined by Standard and Poor's Ratings Services or another recognized debt rating service in the United States or Canada.~~

~~— 2. A security deposit based on the cost of the distribution services to be provided in an amount equal to twice the estimated monthly maximum bill of the distribution customer for those distribution services, except that the initial amount of the security deposit is equal to the amount estimated by the distribution customer that would cover the expected customer base of the distribution customer. The distribution customer shall quarterly adjust the amount of the security deposit to ensure that the amount of the security deposit is sufficient to cover the actual customer base of the distribution customer during the previous quarter. A security deposit may be in the form of:~~

~~— (a) A cash deposit, with interest earned at the rate set forth in NRS 704.655 for customer deposits;~~

~~— (b) An irrevocable and renewable letter of credit issued by a major financial institution that is acceptable to the electric distribution utility;~~

~~— (c) A renewable surety bond issued by a major insurance company which is acceptable to the electric distribution utility; or~~

~~— (d) A guarantee with a guarantor possessing a credit rating of Baa2 or higher from Moody's, or BBB or higher from Standard and Poor's Ratings Services, Fitch IBCA or Duff & Phelps Credit Rating Company, except that if the electric distribution utility determines that a material change in the creditworthiness of the guarantor has occurred, the electric distribution utility may require the distribution customer to use a different guarantor.~~

~~— 3. Credit backed by the full faith and credit of the Federal Government.]~~

NAC 704.79889 Compliance of distribution customer with requirements for data exchange. (NRS 703.025, 704.978) ~~[A distribution customer must comply with all applicable requirements relating to the exchange of electronic data which the commission has set forth by rule or tariff, including completing all reasonable nondiscriminatory requirements for electronic interfaces between the distribution customer and the electric distribution utility to assure reliable distribution service.]~~

NAC 704.79891 Execution of standard agreement; acceptance of service request forms. (NRS 703.025, 704.978) ~~{Once an electric distribution utility has determined, in accordance with NAC 704.79885, that a distribution customer is qualified, the electric distribution utility shall:~~

~~—1. Execute a standard agreement with the distribution customer in an expeditious manner; and~~

~~—2. No later than the date set by the commission by which the electric distribution utility must provide service to distribution customers, begin accepting service request forms from the distribution customer.}~~

NAC 704.79893 Submission of service request form; acknowledgment of receipt; notice of approval or rejection. (NRS 703.025, 704.978)

~~{1. A service request form submitted by a distribution customer to an electric distribution utility must be in the standardized format that has been proposed by the electric distribution utility and approved by the commission.~~

~~—2. Within 1 business day after receiving a service request form from a distribution customer, an electric distribution utility shall provide an acknowledgment to the distribution customer that the electric distribution utility has received the service request form.~~

~~—3. Within 5 business days after the date on which an electric distribution utility receives a service request form from a distribution customer, the electric distribution utility shall provide electronic notice of its approval or rejection of the request for service to the distribution customer which submitted the request, and, if the distribution customer is an alternative seller, the end use customer on whose behalf the service was requested.}~~

NAC 704.79895 Procedure for switch in service. (NRS 703.025, 703.978)

~~{1. Upon receipt by a distribution customer which has submitted a service request form to an electric distribution utility of notification from the electric distribution utility that it has approved the request for service, the distribution customer shall determine, and directly schedule with the provider of the meter of the distribution customer, an appropriate date to make the switch in service. The distribution customer shall:~~

~~—(a) Notify the electric distribution utility of the date on which the actual switch in service will occur; and~~

~~—(b) No later than 3 business days after the date on which the distribution customer is switched, provide the electric distribution utility with a corresponding final meter reading.~~

~~—2. Within 20 days after the date on which a distribution customer initially submits a service request form to an electric distribution utility, the distribution customer shall notify the electric distribution utility of the progress of the distribution customer in scheduling a date on which to switch service. If a distribution customer fails to notify the electric distribution utility as required by this subsection, the electric distribution utility shall cancel the service request form of the distribution customer and a provider of last resort will be designated to provide the service to the distribution customer.}~~

NAC 704.79897 Reasons for rejection of service request form; written explanation to commission; resubmission after resolution of deficiencies. (NRS 703.025, 704.978)

~~{1. An electric distribution utility shall reject a service request form from a distribution customer if:~~

~~—(a) The information provided in the service request form by the distribution customer is false, incomplete or inaccurate in any material respect;~~

~~—(b) The distribution customer is not a qualified distribution customer as required pursuant to NAC 704.79885;~~

~~—(c) The electric distribution utility makes a reasonable request to the distribution customer for additional information regarding the request for service and the distribution customer fails to respond to the request for information within 3 business days;~~

~~—(d) The end use customer does not have a physical connection or lacks other equipment necessary to enable the electric distribution utility to provide the service; or~~

~~—(e) The provision of the service will impair the reliability and safety of the distribution system.~~

~~—2. If the electric distribution utility rejects a service request form from a distribution customer, the electric distribution utility shall forthwith:~~

~~—(a) Provide a full written explanation of the actions which the distribution customer must make before the electric distribution utility will approve the request; and~~

~~—(b) Forward a copy of the written explanation to the commission.~~

~~—3. A distribution customer whose service request form has been rejected by an electric distribution utility may resubmit another service request form for the service only after the deficiencies associated with the former request have been resolved.]~~

NAC 704.79899 Resolution of dispute pertaining to denial of service request form. (NRS 703.025, 704.978) ~~[An electric distribution utility shall resolve disputes pertaining to its denials of service request forms in accordance with the procedures for dispute resolution set forth in NAC 704.79921.]~~

NAC 704.79901 Referral to end-use customer information center. (NRS 703.025, 704.978) ~~[An electric distribution utility shall provide for the direct referral of end-use customers who call the electric distribution utility with inquiries regarding distribution or electric service to the independent end-use customer information center established by the commission.]~~

NAC 704.79903 Acceptance and processing of requests for new physical connections. (NRS 703.025, 704.978)

~~[1. An electric distribution utility shall accept requests for new physical connections from distribution customers and end-use customers who are eligible to order facilities or construction under the provisions of the tariff of the electric distribution utility that deals with line extensions.~~

~~—2. An electric distribution utility shall process requests for new physical connections received by the electric distribution utility on a nondiscriminatory basis in accordance with applicable provisions of the tariff of the electric distribution utility.~~

~~—3. As used in this section, “new physical connections” means the installation of wires, lines or other distribution equipment necessary to physically connect, expand or change distribution facilities.]~~

NAC 704.79905 Information to be supplied to distribution customer. (NRS 703.025, 704.978)

~~[1. Upon the written request of a distribution customer, an electric distribution utility shall provide the distribution customer with access to information concerning the generic load profile of the electric distribution utility.~~

~~—2. Upon determining, pursuant to NAC 704.79885 that a distribution customer which is an alternative seller is qualified, an electric distribution utility shall provide the distribution customer with a listing of point of delivery identification numbers, addresses and current rate schedules to facilitate enrollment.~~

~~— 3. If requested by an end use customer, an electric distribution utility shall provide any available account specific information, including 12 months of usage history, concerning the end use customer to his distribution customer.]~~

NAC 704.79907 Notification of change in credit rating or financial condition. (NRS 703.025, 704.978) ~~[A distribution customer shall notify the electric distribution utility from which the distribution customer is receiving distribution services of any material change in its credit rating or financial condition, including whether the credit or security deposit of the distribution customer is adequate for the current level of service to the distribution customer.]~~

NAC 704.79909 Return of security deposit upon termination of service; interest payment. (NRS 703.025, 704.978)

~~[1. If the distribution service from the electric distribution utility to a distribution customer is terminated for any reason, the electric distribution utility shall return any security deposit, less any amounts owed for outstanding payments, paid by the distribution customer to the electric distribution utility. The electric distribution utility shall return the security deposit within 60 days after the date on which the distribution service is terminated.~~

~~— 2. Except when the distribution service to a distribution customer is terminated for nonpayment, the electric distribution utility shall pay interest to the distribution customer on its security deposit from the date of payment of the deposit through refund, with interest as calculated pursuant to NRS 704.655.]~~

NAC 704.79911 Processing changes in service resulting from termination of relationship between end-use customer and distribution customer. (NRS 703.025, 704.978) ~~[If the distribution service to an end use customer from a distribution seller which is an alternative seller will be changed because of the termination of the relationship between the end use customer and distribution customer:~~

~~— 1. Except as otherwise provided in this subsection, the distribution customer shall, at least 5 days before the scheduled date of termination of the service, notify the electric distribution utility that the distribution customer will no longer be providing distribution service to the end use customer. If the commission has suspended or revoked the license of the distribution customer to act as an alternative seller, the commission will notify the electric distribution utility of the termination in service at least 2 days before the scheduled date of termination of the service.~~

~~— 2. Upon the receipt of a notice of termination of service pursuant to subsection 1, an electric distribution utility shall determine whether another distribution customer has submitted a service request form to the electric distribution utility on behalf of the end use customer whose service is being terminated. If the electric distribution utility receives a timely service request form from another distribution customer, the electric distribution utility shall switch the end use customer to the new distribution customer on the date on which the service of the end use customer from the former distribution customer is terminated.~~

~~— 3. Upon the receipt of a notice of termination of service pursuant to subsection 1:~~

~~— (a) If the notice is from a distribution customer, the electric distribution utility shall notify the appropriate provider of last resort that the end use customer whose service is being terminated will be added to the service of the provider of last resort on the scheduled date of termination of service if the electric distribution utility has not received a service request form from another distribution seller to provide service to the end use customer at least 2 days before the scheduled date of termination; and~~

~~— (b) If the notice is from the commission, the electric distribution utility shall notify the appropriate provider of last resort 2 days before the scheduled date of termination of service that~~

~~the new end use customer will be added to the service of the provider of last resort on the scheduled date of termination of service.~~

~~—4. On the date that service from a distribution customer to an end use customer terminates, the electric distribution utility shall switch the service of an end use customer to the provider of last resort if the electric distribution utility has not received a timely request from another distribution seller to provide service to the end use customer.]~~

NAC 704.79913 Procedure for termination of service to alternative seller. (NRS 703.025, 704.978) ~~[If an electric distribution utility intends to terminate distribution service to a distribution customer which is an alternative seller:~~

~~—1. At least 5 days before the date on which the electric distribution utility intends to terminate service to the distribution customer, but in no event before the electric distribution utility notifies the distribution customer of the date of termination, the electric distribution utility shall notify the end use customer that the electric distribution utility is terminating service to the distribution seller. The notice to the end use customer must include:~~

~~—(a) The date on which the distribution service to the distribution customer will be terminated;~~

~~—(b) The telephone number of the independent end use customer information center established by the commission where the end use customer may obtain information about alternative sellers and providers of last resort; and~~

~~—(c) A statement informing the end use customer that he must designate another alternative seller within 5 business days or a designated provider of last resort will be designated to provide the distribution service to the end use customer for the minimum period established by the applicable rules and regulations of the commission governing the designated provider of last resort.~~

~~—2. If the electric distribution utility does not receive a request for service from another distribution customer on behalf of an end use customer who has been sent a notice of termination pursuant to subsection 1 within the 5 day period, the electric distribution utility shall, as soon as practicable, notify the provider of last resort that the end use customer will be added to the service of the provider of last resort.~~

~~—3. The electric distribution utility shall terminate service to the distribution customer on the date specified in the notice of termination provided to the end use customer pursuant to this section and switch the service of the end use customer to the new distribution customer or provider of last resort, as appropriate.]~~

NAC 704.79915 Planned outage; load reduction; restoration of service in event of unplanned outage. (NRS 703.025, 704.978)

~~[1. If an electric distribution utility schedules a planned outage, the electric distribution utility shall provide notice of the planned outage to all distribution customers who will be affected by the outage. The notice must be given no later than 1 business day after the date on which the electric distribution utility schedules the planned outage.~~

~~—2. If an electric distribution utility must reduce the loading of its distribution system, or any portion thereof:~~

~~—(a) To ensure the safe and reliable operation of the system;~~

~~—(b) To allow for system repairs; or~~

~~—(c) For any other similar reason,~~

~~the electric distribution utility shall allocate the reductions in load proportionally among all its customers whose load contributes to the need for the reduction, if such a proportional curtailment can be done in accordance with prudent utility practices.~~

~~— 3. If there is an unplanned outage, the electric distribution utility shall restore service in accordance with prudent utility practices.]~~

NAC 704.79917 Reports on outages and requests for repairs. (NRS 703.025, 704.978) ~~[An electric distribution utility shall maintain the ability to handle reports on outages and requests for repairs. The electric distribution utility shall provide all its distribution customers with a telephone number for the person or department within the electric distribution utility which is responsible for responding to telephone calls reporting outages or requesting repairs. The electric distribution utility shall allow a distribution customer to use this telephone number to forward calls regarding outages from end-use customers directly to the electric distribution utility.]~~

NAC 704.79919 Response to inquiries regarding outages and repairs. (NRS 703.025, 704.978)

~~[1. An electric distribution utility shall handle all inquiries regarding outages and repairs from distribution customers and end-use customers in a nondiscriminatory manner and shall remedy reported outages and complete requested repairs as expeditiously as possible, consistent with prudent utility practices. Upon the request of a distribution customer or an end-use customer that has requested a repair, an electric distribution utility shall provide the distribution customer or end-use customer with all follow-up information regarding the completion of the repair.~~

~~— 2. An electric distribution utility may, in accordance with prudent utility practices, contact the distribution customer and end-use customer that reported the outage or requested the repair to obtain additional information necessary to remedy the outage or complete a requested repair, regardless of whether the outage or requested repair was reported by the distribution customer on behalf of the end-use customer or by the end-use customer directly.]~~

NAC 704.79921 Resolution of disputes. (NRS 703.025, 704.978)

~~[1. Except as otherwise provided in this subsection, an electric distribution utility shall resolve any disputes arising under any provision of NAC 704.79851 to 704.79921, inclusive, between the electric distribution utility and a distribution customer in accordance with the procedures for dispute resolution set forth in this section. The procedures for dispute resolution set forth in this section do not apply to amendments to any filed tariffs or service agreements and disputes arising over such amendments and service agreements must be presented directly to the commission for resolution.~~

~~— 2. As promptly as practicable after an electric distribution utility learns of any dispute between the electric distribution utility and a distribution customer, the electric distribution utility shall refer the dispute to a senior representative of the electric distribution utility designated by the electric distribution utility and a senior representative of the distribution customer designated by the distribution customer for resolution of the dispute on an informal basis.~~

~~— 3. If the designated representatives of an electric distribution utility and the distribution customer are unable to resolve a dispute between the electric distribution utility and a distribution customer:~~

~~— (a) Within 30 days after the dispute was referred to the representative; or~~

~~— (b) Within such other period upon which the electric distribution utility and distribution customer agree;~~

~~the dispute must be submitted for resolution to the commission in accordance with the applicable rules and regulations of the commission governing the resolution of complaints or disputes by the commission.]~~

Electric Service: Load Profiling

NAC 704.79925 Definitions. (NRS 703.025, 704.978, 704.981) ~~[As used in NAC 704.79925 to 704.79945, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.79927 to 704.79937, inclusive, have the meanings ascribed to them in those sections.]~~

NAC 704.79927 “Customer” defined. (NRS 703.025, 704.978, 704.981) ~~[“Customer” has the meaning ascribed to it in NRS 704.968.]~~

NAC 704.79929 “Electric distribution utility” defined. (NRS 703.025, 704.978, 704.981) ~~[“Electric distribution utility” has the meaning ascribed to it in NRS 704.970.]~~

NAC 704.79931 “Electricity demand” defined. (NRS 703.025, 704.978, 704.981) ~~[“Electricity demand” means the average amount of power, expressed in kilowatts, over a specified interval of time.]~~

NAC 704.79933 “Interval meter” defined. (NRS 703.025, 704.978, 704.981) ~~[“Interval meter” means a device for registering and recording electricity demand in discrete time intervals.]~~

NAC 704.79935 “Load profile” defined. (NRS 703.025, 704.978, 704.981) ~~[“Load profile” means the quantified relationship between electricity load, measured in kilowatts, and time, based on each hour of the day, for a particular customer or group of customers during a specific period.]~~

NAC 704.79937 “Load profiling service” defined. (NRS 703.025, 704.978, 704.981) ~~[“Load profiling service” means the production of load profiles using statistical or engineering methods.]~~

NAC 704.79939 Preparations by electric distribution utility relating to plan for load profiling. (NRS 703.025, 704.978, 704.981)

~~1. An electric distribution utility shall, in accordance with its plan for load profiling that has been approved by the commission, conduct sampling, collect data and prepare load profiles for any customers who do not use an interval meter.~~

~~—2. No later than 2 days before a settlement day, the electric distribution utility shall make available on its public website on the Internet hourly load profiles, including a complete description of all supporting models, documentation and data obtained from the sampling, collection of data and preparation of load profiles performed pursuant to subsection 1. The hourly profiles posted on the Internet must be in a format that is readily accessible and capable of being processed by interested persons, the staff of the commission and the bureau of consumer protection in the office of the attorney general. The electric distribution utility shall also make available on its public website on the Internet 2 years of historic data concerning hourly load profiles, including associated weather information and information which shows the proportion of meters that are interval meters within the service territory of the electric distribution utility. The electric distribution utility shall update the hourly load profile data and associated weather information monthly.~~

~~—3. No later than the date on which customers may begin purchasing services from alternative sellers, an electric distribution utility shall have in place all necessary systems required by this section to provide the load profiling service beginning on that date.~~

~~—4. As used in this section, “settlement day” means the day on which an independent scheduling administrator receives the preliminary monthly settlement data.]~~

NAC 704.79941 Application for approval of plan. (NRS 703.025, 704.978, 704.981) ~~[No later than January 6, 2000, an electric distribution utility shall file with the commission an application for the approval of the complete plan for load profiling of the electric distribution utility and the appropriate distribution tariff provisions to carry out the requirements of subsection 1 of NAC 704.79939. The plan for load profiling must include:~~

~~— 1. All methods and protocols to be utilized for sampling and the collection of data, including procedures for determining sample sizes and the use of interval meters for producing load profiles. If an entity other than the electric distribution utility will be sampling and collecting the data, the plan must identify that entity. If stratified random sampling is used, the plan must include a report on the methodology and procedures used for determining the strata of the market and the sample size for each stratum.~~

~~— 2. All statistical methods and protocols to be utilized for load profiling, including:~~

~~— (a) The criteria and procedures for examining, editing and verifying the sample meter data and a description of how these criteria and procedures comply with the standards and protocols for metering and data approved by the commission;~~

~~— (b) The statistical methodology for producing the load profiles to be made available on the Internet pursuant to NAC 704.79939;~~

~~— (c) The methodology for collecting the hourly load information from the sample of interval meters required by NAC 704.79939;~~

~~— (d) Information supporting whether load profiles based on engineering estimates which are deemed load profiles are appropriate for particular market segments; and~~

~~— (e) If the market segments proposed by the electric distribution utility differ from the market segmentation in its existing rate schedules, detailed documentation on the methodology and results of studies conducted to support the distinct load profiles for each proposed market segment. The documentation must include the impact of the proposed market segmentation on the costs of load profiling.~~

~~— 3. An explanation of the results, equations and formulas used in each of the statistical methodologies and protocols described in subsection 2.~~

~~— 4. An incremental cost estimate for providing the new load profiling service.~~

~~— 5. A detailed description of the final recommendations of the electric distribution utility for its load profile study, including, without limitation, the frequency, customer classes, applicable time frames, market segmentation and file format of the information to be made available on the Internet pursuant to NAC 704.79939.~~

~~— 6. A proposal for recovery of the incremental costs associated with providing the load profiling service and the justification for the proposal.]~~

NAC 704.79943 Application for change to plan. (NRS 703.025, 704.978, 704.981)

~~[1. On or after the date on which customers may begin purchasing services from alternative sellers, an electric distribution utility, the staff of the commission, the bureau of consumer protection in the office of the attorney general or any interested person may file an application with the commission to change the load profiling plan of the electric distribution utility. Such an application must include:~~

~~— (a) Except as otherwise provided in subsection 2, all of the information described in NAC 704.79941; and~~

~~— (b) A detailed description and other relevant analyses of any deficiencies in the previously approved plan for load profiling.~~

~~—2. If an application to change the load profiling plan of an electric distribution utility is filed by an entity other than the electric distribution utility, the electric distribution utility shall, upon the request of the applicant, provide to the applicant an estimate of the incremental cost of providing the new load profiling service. An application filed by any entity other than an electric distribution utility to change a load profiling plan need not include an estimate of the incremental cost of providing the new load profiling service in order to be considered a complete application at the time of filing. An application filed without such an estimate must include a statement concerning when the applicant anticipates providing the estimate.]~~

NAC 704.79945 Report on status of service. (NRS 703.025, 704.978, 704.981)

~~[1. No later than July 1, 2001, and each year thereafter until the load profiling service of an electric distribution utility has fully ceased, the staff of the commission shall file a report for consideration by the commission on the status of the load profiling service of the electric distribution utility. The report must include, without limitation:~~

~~—(a) The status of the market penetration and use of interval meters in the State of Nevada;~~

~~—(b) The status of available metering technology;~~

~~—(c) Recommendations of dates for the phase-out of load profiling based on customer groups, load levels and consumption behavior;~~

~~—(d) Recommendations for the discontinuance of load profiling service to customers of distribution service, unless interval metering is utilized; and~~

~~—(e) Relevant documentation, data and information supporting the status reports and recommendations required by paragraphs (a) to (d), inclusive.~~

~~—2. As used in this section, “distribution service” means the service provided over the physical distribution plant of delivering electricity from the transmission system to end-use customers.]~~

Electric Service: Authorization of Affiliate of Provider of Noncompetitive Service to Provide Potentially Competitive Service

NAC 704.79951 Definitions. (NRS 703.025, 704.980) ~~[As used in NAC 704.79951 to 704.79967, inclusive, unless the context otherwise requires, the words and terms defined in NAC 704.79953, 704.79955 and 704.79957 have the meanings ascribed to them in those sections.]~~

NAC 704.79953 “Affiliate” defined. (NRS 703.025, 704.980) ~~[“Affiliate” means an affiliate of a provider of a noncompetitive service.]~~

NAC 704.79955 “Noncompetitive service” defined. (NRS 703.025, 704.980) ~~[“Noncompetitive service” has the meaning ascribed to it in NRS 704.973.]~~

NAC 704.79957 “Potentially competitive service” defined. (NRS 703.025, 704.980) ~~[“Potentially competitive service” has the meaning ascribed to it in NRS 704.974.]~~

NAC 704.79959 Applicability. (NRS 703.025, 704.980) ~~[The provisions of NAC 704.79951 to 704.79967, inclusive, apply to providers of a noncompetitive service, and their affiliates, that seek to provide a potentially competitive service.]~~

NAC 704.79961 Requirement to file application. (NRS 703.025, 704.980)

~~[1. Before an affiliate may provide a potentially competitive service:~~

~~—(a) If, at the time of application, the affiliate through which the potentially competitive service will be provided does not exist, the provider of the noncompetitive service must file an application that complies with NAC 704.79963 with the commission for authorization for the affiliate to provide the potentially competitive service.~~

~~—(b) If, at the time of application, the affiliate through which the potentially competitive service will be provided does exist, the provider of the noncompetitive service and the affiliate~~

~~must jointly file an application that complies with NAC 704.79963 with the commission for authorization for the affiliate to provide the potentially competitive service.~~

~~—2. If any document required to be included by NAC 704.79951 to 704.79967, inclusive, in an application filed by a provider of a noncompetitive service and its affiliate, if applicable, for authorization for the affiliate to provide a potentially competitive service is already filed in the official files of the commission, the provider and its affiliate will be considered to have satisfied the provision of NAC 704.79951 to 704.79967, inclusive, which requires the document to be submitted if the provider and its affiliate specifically identify the document and request that the document be incorporated by reference into its application.]~~

NAC 704.79963 Application for authorization. (NRS 703.025, 704.980)

~~[1. An application filed with the commission pursuant to NAC 704.79961 by a provider of a noncompetitive service and its affiliate, if applicable, for authorization for the affiliate to provide a potentially competitive service must contain:~~

~~—(a) A description of each potentially competitive service that the affiliate will provide.~~

~~—(b) Information, accompanied by prepared testimony, necessary to assist the commission in determining whether the provider of the noncompetitive service and its affiliate are in compliance with the requirements set forth in subsection 2 of NRS 704.978, including, without limitation:~~

~~—(1) Copies of tariffs and other documents filed with the Federal Energy Regulatory Commission relating to transmission service;~~

~~—(2) Copies of tariffs, service agreements and other documents filed with the commission that set forth the commitments made by the provider of the noncompetitive service to provide distribution services;~~

~~—(3) Descriptions of each formal and informal dispute that has arisen relating to the transmission tariffs, distribution tariffs and commitments of the provider of the noncompetitive service to provide distribution services, including:~~

~~—(I) An identification of the parties to the dispute;~~

~~—(II) Copies of all correspondence and pleadings related to the dispute;~~

~~—(III) A description of the resolution, if any, of the dispute; and~~

~~—(IV) Citations to any orders relating to the dispute which have been issued by a court or regulatory body;~~

~~—(4) Detailed explanations of what uses, if any, the affiliate will have for noncompetitive services during the first 5 years after the commission issues an order authorizing the affiliate to provide the potentially competitive service;~~

~~—(5) An evaluation of whether the transmission facilities and distribution facilities owned by the provider of the noncompetitive service will be sufficient to satisfy all demands on the provider for the transmission and distribution of electricity for the benefit of customers in Nevada;~~

~~—(6) If the evaluation provided pursuant to subparagraph (5) indicates that the transmission facilities and distribution facilities owned by the provider of the noncompetitive service will not be sufficient, a description of all plans to:~~

~~—(I) Expand the transmission facilities and distribution facilities of the provider; and~~

~~—(II) Prioritize the use and operation of those facilities to assure nondiscriminatory access to the transmission and distribution services; and~~

~~—(7) For each noncompetitive service, other than transmission and distribution services, that is provided by the provider of the noncompetitive service, a description of:~~

~~———(I) The service; and~~

~~———(II) Each dispute that has arisen relating to the provision of the service, including any relevant documentation relating to the dispute and the resolution, if any, of the dispute.~~

~~——(c) Information, accompanied by prepared testimony, necessary to assist the commission in determining whether the provider of the noncompetitive service and its affiliate are in compliance with paragraph (b) of subsection 1 of NRS 704.980, including, without limitation:~~

~~———(1) A description of all financing that the affiliate will have, including the terms and sources of such financing.~~

~~———(2) A description of all services, assets and other resources that the affiliate will directly or indirectly receive from, provide to or share with the provider of the noncompetitive service and other affiliates of the provider.~~

~~———(3) A list of all officers and members of the board of directors of the provider of the noncompetitive service, its affiliate through which the potentially competitive service will be provided and all other affiliates of the provider. If, at the time of application, the affiliate through which the potentially competitive service will be provided does not exist, the provider of the noncompetitive service must include a list of the proposed officers and members of the board of directors of the proposed affiliate.~~

~~———(4) A complete chart of the organization of the affiliate through which the potentially competitive service will be provided and of all other affiliates of the provider that provide a potentially competitive service or noncompetitive service. If, at the time of application, the affiliate through which the potentially competitive service will be provided does not exist, the provider of the noncompetitive service must include a chart of the proposed organization of the proposed affiliate.~~

~~——(d) Information, accompanied by prepared testimony, necessary to assist the commission in determining whether the provider of the noncompetitive service and its affiliate are in compliance with paragraph (c) of subsection 1 of NRS 704.980, including, without limitation:~~

~~———(1) A description and, to the extent possible, a quantification of each advantage that the affiliate will have because of its affiliation with the provider of the noncompetitive service; and~~

~~———(2) With respect to all assets, services and other resources that the affiliate will be obtaining from the provider of the noncompetitive service or any other affiliate of the provider, an evaluation of whether and to what extent a competing seller of the potentially competitive service will be able to obtain those assets, services and resources on similar terms.~~

~~——(e) Information, accompanied by prepared testimony, necessary to assist the commission in determining whether the provider of the noncompetitive service and its affiliate are in compliance with paragraph (d) of subsection 1 of NRS 704.980, including, without limitation:~~

~~———(1) The best estimate of the provider of the noncompetitive service and its affiliate, if applicable, of the dollar value and number of transactions that will be undertaken between affiliates providing the potentially competitive service and providers of a noncompetitive service; and~~

~~———(2) A description of the structure of the management of the affiliate and an identification of the managerial personnel of the affiliate and of the personnel of the affiliate who will be responsible for ensuring that the affiliate is in compliance with:~~

~~———(I) The applicable regulations of the commission concerning the relationship between a provider of a noncompetitive service and its affiliate providing a potentially competitive service; and~~

~~———— (II) Any other order of the commission authorizing the affiliate to supply the potentially competitive service.~~

~~If, at the time of application, the affiliate through which the potentially competitive service will be provided does not exist, the provider of the noncompetitive service must include a list of all proposed officers and members of the board of directors of the proposed affiliate and other personnel required to be identified pursuant to this subparagraph.~~

~~— 2. The provision of information by a provider of a noncompetitive service and its affiliate, if applicable, in an application filed with the commission pursuant to this section and NAC 704.79961 will not preclude the commission from requiring supplemental information from the provider of the noncompetitive service and its affiliate if the commission determines that such supplemental information is necessary.]~~

NAC 704.79965 Final order from commission. (NRS 703.025, 704.980) ~~[If an application for authorization for an affiliate to provide a potentially competitive service filed by a provider and its affiliate, if applicable, with the commission pursuant to NAC 704.79951 to 704.79967, inclusive, is:~~

~~— 1. Complete and includes the information required by NAC 704.79963; and~~

~~— 2. Filed with the commission no later than 12 months before the date on which alternative sellers may begin providing potentially competitive services as prescribed by NRS 704.976; the commission will issue a final order on the application no later than 6 months before the date on which alternative sellers may begin providing potentially competitive services. The commission will specify in its final order which potentially competitive service, if any, the affiliate may provide.]~~

NAC 704.79967 Application to modify order. (NRS 703.025, 704.980)

~~[1. If a provider of a noncompetitive service and its affiliate wish to modify an order by the commission authorizing the affiliate to provide a potentially competitive service so that the affiliate may provide a potentially competitive service:~~

~~— (a) Which was not included in the current order; or~~

~~— (b) Which the commission declined to authorize in the current order,~~

~~the provider of the noncompetitive service and its affiliate must jointly submit an application to the commission, pursuant to NAC 704.79951 to 704.79967, inclusive, for authorization for the affiliate to provide the additional service.~~

~~— 2. A subsequent application submitted by a provider of a noncompetitive service and its affiliate pursuant to this section must include, in addition to the information required by NAC 704.79951 to 704.79967, inclusive, a full explanation, supported by prepared testimony, as to why the commission should modify the current order.~~

~~— 3. The filing of an application to modify an order pursuant to this section does not affect the right of any alternative seller that is not affiliated with the provider of the noncompetitive service or its affiliate which filed the application to modify.]~~

NAC 704.9725 Deviations from regulations. ~~[The commission may permit a deviation from the provisions of NAC 704.953 to 704.973, inclusive, if the deviation will not adversely affect the public interest or the interests of the parties and good cause is shown to support the deviation.]~~