

LCB File No. R059-02

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

(This regulation is part of the original Initial Draft of R198-01 posted on 12/18/01)

April 15, 2002

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-17, 20, 21, 26, 30-41, NRS 703.025 and 704.210; §§18, 19, 22-25, 27, 28, 29, NRS 703.025, 704.1835 and 704.210.

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

Sec. 2. *1. When a customer is required to be present for a service or repair visit, a utility will arrange with the customer a mutually-agreeable four (4) hour time span during which the visit will be scheduled, or arrange for an alternate entry method with the customer. If a utility's service or repair employee cannot appear at the customer's location during the time span scheduled, the utility shall use its best efforts to provide telephonic notice to the customer.*

2. If the utility fails to appear at the customer's location during the scheduled time span and fails to use its best efforts to provide telephonic notice to the customer pursuant to subsection 1, then the utility shall not charge any service fee or repair charge for the labor that was to be performed during the scheduled visit or for labor performed during any later visit that is scheduled as a substitute for the missed visit.

Sec. 3. 1. *For the purposes of this section, the commission hereby adopts by reference the slamming rules and remedies of the Federal Communications Commission, 47 C.F.R. §§ 64.1100 to 64.1195, inclusive, and any amendments made to those rules and remedies by the Federal Communications Commission. The provisions of 47 C.F.R. §§ 64.1100 to 64.1195, inclusive, may be purchased from the Superintendent of Documents, United States Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, or toll-free at 866-512-1800, for the price of \$____.*

2. Pursuant to the authority granted to state commissions by 47 C.F.R. § 64.1110, the commission hereby declares its intention to administer and enforce the slamming rules and remedies of the Federal Communications Commission with regard to providers of telecommunication service that are subject to the jurisdiction of the commission.

3. A provider of telecommunication service that is subject to the jurisdiction of the commission shall not violate the slamming rules and remedies of the Federal Communications Commission.

4. Upon the request of a subscriber, a provider of telecommunication service that is subject to the jurisdiction of the commission shall change the preferred long distance carrier of the subscriber in accordance with the procedures established by the slamming rules and remedies of the Federal Communications Commission.

Sec. 4. 1. *If a customer makes an application for service and the utility is unable to provide service to the requested location within 5 business days after the date on which the customer makes the application, the utility shall provide the customer with a temporary cellular telephone unless:*

(a) A line extension is needed to provide service to the requested location; or

(b) The requested location is in area where cellular telephone service is unavailable.

2. If a customer is provided with a temporary cellular telephone by a utility pursuant to subsection 1, the customer:

(a) May use the temporary cellular telephone until the utility provides service to the requested location; and

(b) Shall pay the rates that the provider of the cellular telephone service charges for single-party service for the period during which the temporary cellular telephone is in use by the customer.

Sec. 5. *If a utility charges a customer for use of any telecommunication service based on units of time, the charges must be assessed and billed to the customer in units of minutes or seconds.*

Sec. 6. *If a utility terminates basic service to a customer for nonpayment, the utility shall continue to provide the customer with access to:*

- 1. Emergency 911 service; and*
- 2. Toll-free 800 numbers and all other toll-free numbers.*

Sec. 7. *A utility shall provide its customers with at least 30 days' notice of:*

- 1. Its intent to change a rate; and*
- 2. The effective date of each change in a rate.*

Sec. 8. *1. If a customer is required to be present at the location where service is provided so that the utility is able to conduct a service visit or repair visit at that location, the utility shall provide the customer with a 4-hour time span during which the service visit or repair visit will be scheduled.*

2. If it is likely that the employee of the utility or other person who is to conduct the scheduled visit will arrive after the 4-hour time span on the day of the scheduled visit or will not arrive at all on the day of the scheduled visit, the utility shall use its best efforts to notify the customer by telephone as soon as the utility knows that it is likely that the employee or other person will arrive after the 4-hour time span on the day of the scheduled visit or will not arrive at all on the day of the scheduled visit.

3. Whether or not the utility notifies the customer by telephone pursuant to subsection 2:

(a) If the employee or other person arrives after the 4-hour time span on the day of the scheduled visit, the utility shall not charge any service fee or repair charge for all labor performed during the scheduled visit.

(b) If the employee or other person does not arrive at all on the day of the scheduled visit, the utility shall not charge any service fee or repair charge for:

(1) The missed visit; and

(2) All labor performed during any later visit that is scheduled as a substitute for the missed visit.

Sec. 9. GAS AND ELECTRIC

Sec. 10. GAS AND ELECTRIC

Sec. 11. GAS AND ELECTRIC

Sec. 12. GAS AND ELECTRIC

Sec. 13. GAS AND ELECTRIC

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Sec. 26. GAS AND ELECTRIC

Sec. 27. GAS AND ELECTRIC

Sec. 28. GAS AND ELECTRIC

Sec. 29. GAS AND ELECTRIC

Sec. 30. NAC 704.395 is hereby amended to read as follows:

704.395 As used in NAC 704.395 to 704.421, inclusive, *and sections 4 to 8, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 704.3955 to 704.403, inclusive, have the meanings ascribed to them in those sections.

Sec. 31. NAC 704.3965 is hereby amended to read as follows:

704.3965 “Customer” means a person:

1. Who receives or applies to receive any residential telecommunication service from a utility; or
2. In whose name such service is or is to be provided, as evidenced by:
 - (a) ~~His~~A signature on the application or contract for service; or

(b) ~~[In the absence of a signed instrument, the receipt and payment of bills regularly issued in the name of the customer, regardless of the identity of the actual user of the service.]~~ *Other demonstrable evidence establishing that the person requested the utility to provide service in that person's name.*

Sec. 32. NAC 704.404 is hereby amended to read as follows:

704.404 The provisions of NAC 704.395 to 704.421, inclusive ~~[]~~, *and sections 4 to 8, inclusive, of this regulation:*

1. Apply to telephone service furnished to residential customers by a provider of basic service which provides service through 10,000 or more access lines.

2. Provide guidance to a provider of basic service which provides service through less than 10,000 access lines regarding the scope and substance of the issues which must be addressed in the tariffs ~~[which]~~, *terms and conditions that* must be filed with the commission.

Sec. 33. NAC 704.4065 is hereby amended to read as follows:

704.4065 1. A utility shall notify each customer that special programs may be available for customers who are elderly or handicapped or have other special needs.

2. The notice required by subsection 1 must:

(a) Be made by means of a notice enclosed with a bill;

(b) Be made not less frequently than once each year; and

(c) State that information concerning these programs may be found in NAC 704.395 to 704.421, inclusive, *and sections 4 to 8, inclusive, of this regulation* or obtained from the business office of the utility.

Sec. 34. NAC 704.407 is hereby amended to read as follows:

704.407 1. Except as otherwise provided in subsection 2, a utility may not enter into any agreement with a customer under terms that are inconsistent with the provisions of NAC 704.395 to 704.421, inclusive, *and sections 4 to 8, inclusive, of this regulation*, unless it informs the customer of his rights under those sections.

2. ~~Nothing in~~ *The provisions of* NAC 704.395 to 704.421, inclusive, ~~shall be deemed to~~ *and sections 4 to 8, inclusive, of this regulation do not* preclude a utility from entering into an agreement with a customer under terms that are more favorable to the customer than those provided by those sections.

Sec. 35. NAC 704.4125 is hereby amended to read as follows:

704.4125 1. ~~A~~ *A utility shall:*

(a) Deliver a bill to a customer by deposit of the bill with the United States Postal Service for delivery to the customer by first-class mail or by another means of physical delivery of the bill to the billing address of the customer; and

(b) Upon the request of the customer, deliver an electronic bill to the customer via the Internet. The electronic bill:

(1) Must contain the same content and be presented in the same format as the bill delivered to the customer pursuant to paragraph (a); and

(2) Is in addition to the bill delivered to the customer pursuant to paragraph (a) and may not be used to determine the past due date for payment of the bill delivered to the customer pursuant to paragraph (a).

2. *Each* bill for service issued by a utility *pursuant to paragraph (a) of subsection 1* is due:

(a) Upon deposit of the bill with the United States Postal Service for delivery to the customer by first-class mail; or

(b) In the case of *physical* delivery by other means, upon *physical* delivery of the bill to the billing address of the customer.

~~[2.]~~ 3. A customer may pay the bill:

(a) Unless there is reason to believe that he has defrauded, is defrauding or intends to defraud the utility, or other good cause exists, by depositing payment *in the form of a check or a money order* with the United States Postal Service for delivery to the utility by first-class mail;

(b) By making payment at the business office of the utility ~~[; or]~~, *using cash, a check, a money order, a credit card, a debit card, an electronic check or, if authorized by the utility, some other form of electronic fund transfer;*

(c) By making payment to any person authorized by the utility to accept payment ~~[-~~
~~3. Except as otherwise provided in this subsection, the]~~, *using cash, a check, a money order, a credit card, a debit card, an electronic check or, if authorized by the utility, some other form of electronic fund transfer; or*

(d) *By making payment through a bank-by-phone system or, if authorized by the utility, by making payment through a payment terminal, an automatic withdrawal system or another system that allows for electronic fund transfers.*

4. *A utility shall authorize at least one system of payment that allows customers to make payments to the utility via the Internet.*

5. *The* date a bill is past due may not be earlier than 15 days after its issuance.

6. *If a utility has the capability to allow a customer to choose the date that, for each billing cycle, will be the last day for payment before the past due date, the utility shall:*

(a) *On an annual basis, notify customers that they have such a choice; and*

(b) *Upon the request of a customer, allow the customer to make such a choice.*

7. If a utility does not have the capability described in subsection 6, the utility shall, upon the request of a customer and to the extent practicable, work with the customer to establish by mutual agreement the date that, for each billing cycle, will be the last day for payment before the past due date.

8. If the last day for payment before that date falls on a Sunday, legal holiday, or any other day on which the office of a utility used for the payment of bills is closed, the last day for payment is the next business day. Payment of a bill by first-class mail is timely if the payment is received by the utility not more than 3 days after the past due date.

~~4.~~ 9. A utility may charge a fee, as set forth in its tariff, for ~~the~~:

(a) *The* return of an unpaid check ~~for the~~.

(b) *The* late payment of a bill.

(c) *The use of a credit card to make a payment to the utility. The utility shall not charge a fee for the use of a credit card to make a payment to the utility unless the fee has been reviewed and approved by the commission.*

Sec. 36. NAC 704.4145 is hereby amended to read as follows:

704.4145 1. If a customer disputes any bill, charge, or service, the utility shall promptly investigate the matter and report its determination to the customer. If the customer so requests, the report must be made in writing. Whether or not a written report is requested, upon an adverse determination by the utility, it shall inform the customer of his right to file a complaint with the division.

2. If the customer is not satisfied with the utility's determination, he may file a complaint with the division.

3. ~~[[~~ *Except as otherwise provided in NAC 704.4151, if the customer files* a complaint ~~is filed, unless the utility agrees to waive the requirement at the request of]~~ *with* the division, the customer may be required by the utility to pay any disputed amount to the utility pending resolution of the complaint ~~]~~ *unless the utility agrees to waive the requirement at the request of the division.* If such a payment is made, the utility shall refund any money found by the commission to have been charged improperly.

4. A summary of the provisions of this section must be:

(a) Printed on the front or back of each bill or notice of termination issued by a utility; or

(b) Set forth in a section of each telephone directory issued by a utility. If this method is used, a reference to that section of the directory must be included on the front or back of each bill or notice of termination issued by the utility.

FLUSH The summary must include the mailing address, telephone number, and toll-free telephone number of the division.

Sec. 37. NAC 704.4151 is hereby amended to read as follows:

704.4151 1. If a customer fails to pay disputed toll charges ~~]~~ *and* files a complaint with the division, ~~[and a utility terminates service to the customer because of his failure to pay the disputed charges,]~~ the utility shall *continue to* furnish local service to the customer pending resolution of the dispute if toll restriction is available and the customer makes prior payment, in full, of:

(a) All outstanding charges for local service; *and*

(b) ~~[Any required deposit and connection fee for local service; and~~

~~—(c)]~~ The rates and charges for toll restriction set forth in the tariff of the utility.

~~[2.]~~ If the commission resolves the complaint in favor of the customer, the utility shall reimburse the customer for *the* rates and charges ~~[previously paid pursuant to paragraphs (b) and (c) of subsection 1. The utility is not required to make reimbursement of any required deposit and connection fee for local service if the utility has terminated service because of the failure of the customer to pay both local and toll charges.~~

~~3. The utility shall notify the customer of his right to obtain local service pursuant to this section as soon as:~~

~~(a) A complaint by the customer is pending before the division or the commission; and~~

~~(b) The utility has made an involuntary termination of the local service of the customer.]~~ *paid to the utility pursuant to this paragraph.*

2. If a customer complies with the provisions of subsection 1, the utility shall not terminate local service to the customer for failure to pay the disputed toll charges while the complaint is pending.

3. If the commission resolves the complaint against the customer, the customer shall pay the toll charges that the customer owes to the utility, and the utility shall transfer the toll charges to the appropriate provider of telecommunication service that provided the toll service to the customer.

Sec. 38. NAC 704.416 is hereby amended to read as follows:

704.416 Except as otherwise provided in NAC ~~[704.418, 704.4185 and 704.4195,]~~ *704.395 to 704.421, inclusive, and sections 4 to 8, inclusive, of this regulation,* a utility may terminate service to a customer without his consent, after giving any notice required by NAC 704.4165 and 704.417, for any of the following reasons:

1. Failure of the customer or any co-signer of the customer to pay a delinquent bill or any installment due on such a bill, including a bill for service received:

(a) At a previous location; or

(b) If the customer receives service at more than one location, at any such location.

2. Failure of the customer or any guarantor of the customer to pay any required deposit or connection fee or any installment due on either.

3. ~~Failure of the customer to pay toll charges appearing on the bill. If the utility terminates local service under this subsection, it shall comply with the requirements of NAC 704.4151.~~

~~4.]~~ Violation by the customer of any rule of the utility set forth in its tariff. As used in this subsection, “rule” means a provision that establishes the application of rates, charges, and standards for service and is not included in a rate schedule.

Sec. 39. NAC 704.4165 is hereby amended to read as follows:

704.4165 1. Except as otherwise provided in NAC 704.418, a utility that intends to terminate ~~the service of~~ *service to* a customer shall give written notice of the termination to the customer and make a reasonable effort to notify any:

(a) Co-signer or guarantor of the customer; and

(b) Third person designated by the customer pursuant to NAC 704.4175.

2. Except as otherwise provided in subsection 1, the notice must be served upon each person described in that subsection at least 5 days before the date of the termination by personal delivery or by first-class mail addressed to his last known mailing address. Service of the notice shall be deemed complete as of the date of mailing or personal delivery.

3. The notice must clearly set forth:

(a) The account number and telephone number of the customer affected;

- (b) The date on or after which the termination will occur;
- (c) The reason for the termination;
- (d) If the termination is for nonpayment of a delinquent bill or any installment due on such a bill, the total amount of money owed to the utility by the customer and the minimum payment required to avoid termination;
- (e) The telephone number at which the customer may obtain information from the utility concerning his bill or service;
- (f) A statement that the customer may contest the termination before the division as provided in NAC 704.4205; and
- (g) If required by that section, the statement required by NAC 704.4205.

4. If a utility provides a customer with written notice of its intent to terminate service as required by this section, the utility shall provide the customer with an additional notice via e-mail if the customer has requested to be provided with such an additional notice via e-mail and the customer has provided the utility with a correct e-mail address. The additional notice via e-mail must contain the same information as the written notice provided to the customer.

Sec. 40. NAC 704.421 is hereby amended to read as follows:

704.421 1. A utility shall resume service to a customer:

- (a) If he has complied with the requirements of the utility set forth in its tariff;
- (b) Upon the order of any court of competent jurisdiction or the commission; or
- (c) Immediately upon a determination that failure to resume service would be especially dangerous to the health of the customer or any person who is a permanent resident of the premises where the service is being provided.

2. *If a utility terminates service to a customer for nonpayment and the customer or another person or entity on behalf of the customer subsequently pays the utility in an amount that is sufficient to resume service, the utility shall resume service to the customer:*

(a) Within 15 hours after the time when the payment is received by the utility, if the payment is received by the utility on a day other than a Friday, Saturday, Sunday or holiday; or

(b) By the end of the next business day, if the payment is received by the utility on a Friday, Saturday, Sunday or holiday.

3. A utility may charge a fee, as set forth in its tariff, to resume service to a customer.

Sec. 41. NAC 704.6848 is hereby amended to read as follows:

704.6848 If the commission authorizes the provider to be regulated in accordance with an alternative plan of regulation, the commission will, as a condition of entry into such a plan, specify the conditions of entry into that alternative plan which:

1. Specify the rate at which each basic service will be capped during the term of the plan.
2. Require the terms and conditions of basic service to be subject to complete tariffing requirements, including conformance with the provisions of NAC 704.395 to 704.421, inclusive, *and sections 4 to 8, inclusive, of this regulation* and 704.68028, where applicable.
3. Specify the rates for other essential services and the range of rates for discretionary services that will become effective at the time of entry into the alternative plan of regulation.
4. Require the terms and conditions of the other essential and discretionary services to be subject to complete tariffing requirements, including conformance with the provisions of NAC 704.395 to 704.421, inclusive, *and sections 4 to 8, inclusive, of this regulation* and 704.68028 where applicable.

5. Authorize the provider to adjust its rates for intrastate switched access, exclusive of the charge for a common carrier line, and its rates for its elements of tariffed cellular interconnection, to the extent that such elements correspond to the rates for interstate access, so that those rates will be in parity with its rates for interstate switched access at the time of entry into the plan.

6. Specify the standards for quality of service which the provider must meet pursuant to paragraph (f) of subsection 1 of NAC 704.68476 during the term of its participation in the alternative plan of regulation, including the procedures which will govern the mandatory investigation by the commission if a decrease in the availability or reliability, or both, of basic service occurs under the plan.

7. Specify the modernizations, expansions, or improvements of the system required as a condition of the provider's participation in the alternative plan of regulation.

8. Specify the category of service for each of the services offered by the provider at the time of entry into the alternative plan of regulation if the applicant has requested a change in the classification of a service.

9. Specify any other terms and conditions of the provider's participation in the alternative plan of regulation.

10. Specify the date on which the provider's entry is approved. The date of actual commencement of the alternative plan of regulation must be within 60 days after the issuance of an order by the commission specifying the terms and conditions of the provider's participation in the plan, unless a later date is approved by the commission.