

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

LCB File No. R059-02

December 17, 2003

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

AUTHORITY: §§1-16, NRS 703.025 and 704.210.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. 1. *For the purposes of this section, the Commission hereby adopts by reference:*

(a) The slamming rules and remedies of the Federal Communications Commission, 47 C.F.R. §§ 64.1100 to 64.1195, inclusive, and all definitions applicable to those sections; and

(b) Any amendments made to those rules and remedies and definitions by the Federal Communications Commission.

2. 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 \$41.

3. 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.

4. 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.

5. 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. 3. *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. 4. *If a utility temporarily disconnects basic service to a customer because of nonpayment, the utility shall, if it has the technology, continue to provide the customer with access to:*

- 1. Emergency 911 service;*
- 2. At least one telephone number for reporting trouble to the utility; and*
- 3. At least one telephone number for the business office of the utility.*

Sec. 5. NAC 704.395 is hereby amended to read as follows:

704.395 As used in NAC 704.395 to 704.421, inclusive, *and sections 3 and 4 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. 6. 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 ~~the~~

~~—(a) His~~ a signature on the application or contract for *such* 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.]~~

3. In whose name such service is or is to be provided, as may be established by other demonstrable evidence that the person requested the utility to provide such service in that person's name.

Sec. 7. NAC 704.404 is hereby amended to read as follows:

704.404 The provisions of NAC 704.395 to 704.421, inclusive ~~of~~, *and sections 3 and 4 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~~ *that* must be filed with the Commission.

Sec. 8. 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 3 and 4 of this regulation* or obtained from the business office of the utility ~~[]~~; *and*

(d) Be printed in a type size that is not smaller than 12-point type or font.

Sec. 9. 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 3 and 4 of this regulation*, unless it informs the customer of his rights under those sections.

2. ~~[Nothing in]~~ *Notwithstanding the provisions of* NAC 704.395 to 704.421, inclusive, ~~[shall be deemed to preclude]~~ *and sections 3 and 4 of this regulation*, a utility ~~[from entering]~~ *may enter* into an agreement with a customer under terms that are more favorable to the customer than those provided by ~~[those sections.]~~ *NAC 704.395 to 704.421, inclusive, and sections 3 and 4 of this regulation, if the more favorable terms are consistent with the tariffs of the utility or are extended to all customers of the utility.*

Sec. 10. NAC 704.4125 is hereby amended to read as follows:

704.4125 1. A bill for service issued by a utility 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 delivery by other means, upon delivery of the bill to the billing address of the customer.

2. 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 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

(c) By making payment to any person authorized by the utility to accept payment.

3. Except as otherwise provided in this subsection, the date a bill is past due may not be earlier than 15 days after its issuance. If the last day for payment before ~~that~~ *the past due* 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. A utility may charge *a customer* 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 the customer a fee for the use of a credit card to make a payment to the utility or enter into an agreement with a third-party credit card service which charges the customer such a fee, unless the fee has been reviewed and approved by the Commission.*

Sec. 11. 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.* 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.

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

Sec. 12. 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~~ *brings current all* outstanding charges for local service . ~~];~~

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

~~—(c) The~~ *If toll restriction is available from the utility, the customer shall pay 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 ~~[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.] :~~

(a) Any disputed charges which the customer paid to the utility and which are resolved by the complaint;

(b) Any rates and charges for toll restriction which the customer paid to the utility and which are related to the complaint; and

(c) Any other amounts which the customer paid to the utility and which are related to the complaint.

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

Sec. 13. 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 3 and 4 of this regulation,** a utility may terminate service to a customer without ~~[his consent,]~~ **the consent of the customer,** 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]~~ **, except that if the customer files a complaint with the Division to dispute the toll charges and complies with the provisions of NAC 704.4151, the utility may not terminate** local service under this subsection ~~[, it shall comply with the requirements of NAC 704.4151.]~~ **unless the Commission resolves the complaint against the customer.**

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. 14. 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 *business* 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.

Sec. 15. 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 temporarily suspends service to a customer because of 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 24 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 legal 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 legal holiday.*

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

Sec. 16. 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 3 and 4 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 3 and 4 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.