

ADOPTED REGULATION OF THE PUBLIC

UTILITIES COMMISSION OF NEVADA

LCB File No. R126-02

Effective February 17, 2005

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

AUTHORITY: §§1-15, NRS 703.025, 704.1835 and 704.210.

A REGULATION relating to utilities; adopting provisions relating to the Consumer Bill of Rights for water service; establishing requirements and procedures relating to the termination of water service; and providing other matters properly relating thereto.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 15, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Customer” means a person:*

- 1. Who receives or applies to receive residential water service from a utility or landlord;*
- 2. In whose name such service is or is to be provided, as evidenced by a signature on the application or contract for such service; or*
- 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 or landlord to provide such service in that person’s name.*

Sec. 4. *“Division” means the Division of Consumer Complaint Resolution of the Commission.*

Sec. 5. *“Especially dangerous to health” means a condition or event likely to cause serious impairment to the health of a person who appears to be unable, without assistance, to manage his own resources, carry out the activities of daily living, or protect himself from neglect or a hazardous situation.*

Sec. 6. *“Landlord” means a landlord of a mobile home park:*

- 1. Who is subject, in whole or in part, to the provisions of chapter 118B of NRS; and*
- 2. Who pays a provider for water service and who distributes or resells the water to one or more residential tenants.*

Sec. 7. *“Termination of service” means the intentional cessation of service by a utility or landlord to a customer which has not been requested by the customer and, in the case of a utility, which occurs pursuant to the tariffs of the utility.*

Sec. 8. *“Utility” means a public utility, as defined in NRS 704.020, that furnishes residential water service to customers.*

Sec. 9. *1. Except as otherwise provided in this section, a utility or landlord may not enter into any agreement with a customer under terms that are inconsistent with the provisions of sections 2 to 15, inclusive, of this regulation.*

2. Notwithstanding the provisions of sections 2 to 15, inclusive, of this regulation:

(a) A utility may enter into an agreement with a customer under terms that are more favorable to the customer than those provided by sections 2 to 15, inclusive, of this regulation, if the more favorable terms are consistent with the tariffs of the utility.

(b) A landlord may enter into an agreement with a customer under terms that are more favorable to the customer than those provided by sections 2 to 15, inclusive, of this regulation.

Sec. 10. *A utility or landlord may terminate water service without prior notice only:*

1. *If an unsafe or hazardous condition related to water service is found to exist on the customer's premises;*
2. *If the use of water service on the customer's premises is found to be detrimental or damaging to the facilities or services of the utility or the landlord, or to other customers;*
3. *Upon the order of any court or the Commission;*
4. *If the acts of the customer or the conditions upon the customer's premises are such as to indicate to the utility or landlord that the customer intends to defraud it;*
5. *If the utility or landlord has tried diligently to meet the requirements for notice set forth in section 12 of this regulation but has not been able to give such notice;*
6. *If an event occurs which could not have been reasonably anticipated or controlled and which requires the termination of service;*
7. *If the location where service is provided has been abandoned;*
8. *If the customer obtained service without the specific credit authorization of the utility or landlord; or*
9. *If the termination without prior notice is otherwise authorized pursuant to sections 2 to 15, inclusive, of this regulation.*

Sec. 11. *Except as otherwise provided in sections 2 to 15, inclusive, of this regulation, a utility or landlord may terminate water service to a customer without the consent of the customer, after adequate notice has been given pursuant to section 12 of this regulation, for any of the following reasons:*

1. *Nonpayment of a delinquent bill for water service.*
2. *Failure to make a security deposit for water service, an installment payment on a delinquent bill or security deposit for water service, or a guarantee, when required.*

3. *Negligent or wasteful use of water on the premises of the customer.*

4. *Violation of any rule of the utility or landlord relating to water service.*

Sec. 12. 1. *Except as otherwise provided in section 13 of this regulation, if a utility or landlord has a reason for the termination of service pursuant to section 11 of this regulation and intends to terminate service, the utility or landlord shall in every case send a written notice of its intended action to the customer at least 10 days before it carries out the action.*

2. *If the utility or landlord receives no response to the initial notice, it shall send a second notice to the customer using a method which ensures that the notice is delivered to the customer or the customer's premises at least 48 hours before it terminates service.*

3. *The initial notice must be served upon the customer:*

(a) *By personal service; or*

(b) *By depositing the notice with the United States Postal Service, properly addressed and postage prepaid, for delivery by first-class mail to the customer's last known mailing address.*

4. *Service of the initial notice shall be deemed complete on the date that the notice is:*

(a) *Delivered by personal service to the customer; or*

(b) *Deposited with the United States Postal Service, properly addressed and postage prepaid, for delivery by first-class mail to the customer's last known mailing address.*

5. *The initial notice and any second notice of an intended termination of service must contain the following information in plain language, with the information listed in paragraphs*

(i) and (j) presented in a larger type size than the balance of the notice:

(a) *An identification of the account affected by the intended termination.*

(b) *The date on which the intended termination will occur.*

(c) *The address of the location where service will be terminated.*

(d) The reason for the intended termination, including, if the intended termination is for nonpayment, a statement designating the bill as one for actual or estimated use and specifying the total amount owed, the period over which that amount was incurred, and the minimum payment required to avoid termination.

(e) The procedures which are available to dispute or appeal from the intended termination, specifying the address and telephone number of the utility's or landlord's office which is responsible for handling complaints or inquiries.

(f) A statement that the utility or landlord will promptly investigate any complaint or dispute and give the customer its written decision on the matter.

(g) A statement that if the customer wishes to dispute any fact or interpretation of a regulation relied upon by the utility or landlord in its decision to terminate service, the customer must communicate with the Division. The statement must include the mailing address, telephone number, and toll-free telephone number of the Division.

(h) A statement that service will not be terminated before a resolution of the dispute if the customer pays the questioned portion of the bill at the time the dispute arises and pays all subsequent bills.

(i) An explanation of any arrangements for payment which the utility or landlord offers to customers who have difficulty in paying their bills, including the program of deferred payments described in section 13 of this regulation.

(j) If the location where service will be terminated is in a county whose population is 50,000 or more:

(1) The appropriate addresses and telephone numbers of the Welfare Division of the Department of Human Resources; and

(2) A list of the names, addresses and telephone numbers of other organizations which have notified the utility that they will help customers who are unable to pay their bills.

(k) An explanation of the restrictions on the termination as set forth in section 15 of this regulation.

(l) An explanation of the utility's or landlord's fee schedule and procedures for reconnecting service.

6. If a utility has a reason for the termination of service and intends to terminate service to a mobile home park or a multiunit residential complex, the utility shall use its best efforts to notify the occupants of each family dwelling unit located within the park or complex of the utility's intended action. The utility shall use its best efforts to notify the occupants by posting on the door of each such unit a written notice which states:

(a) The reason for the termination of service;

(b) The deadline for making any delinquent payments or for taking any corrective action that is necessary to avoid the termination of service; and

(c) The date scheduled for the termination of service in the event that any delinquent payments are not made or corrective action is not taken.

↪ The utility shall provide the notice required by this subsection to the occupants of a multiunit residential complex at the same time that the utility provides notice to the customer of record for the complex.

Sec. 13. 1. *Except as otherwise provided in this section, if a utility or landlord intends to terminate service to a customer because of nonpayment, the utility or landlord shall first offer the customer a program of deferred payments.*

2. A program of deferred payments must require the customer to pay:

(a) The arrearage within 60 days after the execution of the agreement, in three equal payments, with the first payment to be made upon the execution of the agreement; and

(b) All future bills when due.

3. Except as otherwise provided in subsection 4, the utility or landlord shall offer the customer a program of deferred payments in each notice of intent to terminate service because of nonpayment which is provided to the customer pursuant to section 12 of this regulation.

4. The utility or landlord may terminate service to a customer who is participating in a program of deferred payments pursuant to this section for any failure by the customer to make payment as required by the program, if the utility or landlord sends written notice of its intended action to the customer at least 24 hours before it terminates service.

Sec. 14. 1. If a utility or landlord intends to terminate service to a customer because of nonpayment, the utility or landlord shall postpone the termination if the termination would occur during a forecasted period of extreme heat for the local geographical area which encompasses the location where service is provided and which typically experiences similar temperature conditions as the location where service is provided.

2. As used in this section:

(a) "Forecasted period of extreme heat" means any period of 24 hours for which the National Weather Service has issued a forecast predicting that, at some point during the period of 24 hours, the outside temperature will be 105 degrees Fahrenheit or higher.

(b) "National Weather Service" means the National Weather Service of the National Oceanic and Atmospheric Administration of the United States Department of Commerce.

Sec. 15. 1. If a utility or landlord intends to terminate service to a customer because of nonpayment, the utility or landlord shall postpone the termination for 30 days after the day on which it receives both of the following:

(a) A statement from a licensed physician or public health official certifying that any termination of service would be especially dangerous to the health of the customer or another person who is a permanent resident of the premises where service is being provided and would constitute an emergency affecting the health of the person. The physician or health official may consider the feebleness, advanced age, physical disability or handicap, mental incapacity, serious illness, or other infirmity of the person affected and may also consider the necessity of cooling to maintain the health of the person affected, such as the necessity of cooling provided by an evaporative cooler or similar device. Except as otherwise provided in this paragraph, the statement must be in writing and include:

- (1) The address where service is provided;*
- (2) The name of the person whose health would be especially endangered;*
- (3) A clear description of the nature of the emergency; and*
- (4) The name, title, and signature of the physician or official certifying the emergency.*

↳ The statement may be made by telephone if a written statement is sent for confirmation to the utility or landlord within 5 days after the oral statement is made.

(b) A statement signed by the customer:

(1) That he is unable to pay for service in accordance with the requirements of the utility's or landlord's billing; or

(2) That he is able to pay for service only in installments. The utility or landlord shall allow an installment plan of up to 60 days for the customer to pay the bills of the customer.

The installment plan must consist of three equal payments with the first payment to be made when the customer presents the signed statement to the utility or landlord.

2. The postponement may be extended for an additional 30 days if the utility or landlord receives a renewed medical certificate before the expiration of the original period of postponement.

3. If a utility or landlord again intends to terminate service after a customer has obtained a postponement pursuant to subsection 1, the utility or landlord shall give written notice of its intended action:

(a) To the Division;

(b) To the customer; and

(c) To each governmental agency or other organization which has notified the utility or landlord that it will help customers who are unable to pay their bills.

4. Before the period of postponement expires, the customer must arrange with the utility or landlord to pay the bills of the customer in accordance with its applicable rules.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R126-02**

The Public Utilities Commission of Nevada adopted regulations assigned LCB File No. R126-02 which pertain to chapter 704 of the Nevada Administrative Code on January 12, 2005.

Notice date: 12/20/2001; 4/22/2002; 8/12/2002; 12/18/2002; 1/14/2004

Hearing date: 2/19/2003; 3/2/2004

Date of adoption by agency: 1/12/2005

Filing date: 2/17/2005

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

The regulation in Public Utilities Commission of Nevada (“Commission”) Docket No. 01-3015 was noticed seven (7) times: March 23, 2001, December 20, 2001, April 22, 2002, August 12, 2002, November 20, 2002, December 18, 2002, and January 14, 2004 in the Elko Daily Free Press, the Ely Daily Times, the Humboldt Sun, the Las Vegas Review Journal, the Mineral County Independent, the Nevada Appeal, the Reno Gazette Journal and the Tonopah Times-Bonanza. Additionally, the notice was mailed to county clerks in Reno, Carson City and Nevada, and all persons who requested inclusion on the Commission’s service list. There was public response from Carol Ranalli of Sparks, Nevada who asked that the temperature at which utility service terminations occur be examined with respect to public health issues. (March 27, 2002 Workshop transcript Vol. 5 at pgs. 182-183). A copy of the summary may be obtained by calling the Commission at (775) 687-6001 or (702) 486-7210, or by writing to the Commission at 1150 East William Street, Carson City, Nevada 89701 or 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

2. The number of persons who:

(a) Attended the workshop:

June 15, 2001:	24
January 22, 2002:	9
January 23, 2002:	14
January 29, 2002:	7
March 27, 2002:	10
June 28, 2002:	15
October 10, 2002:	3

(b) Testified at the workshop:

June 15, 2001:	24
January 22, 2002:	9
January 23, 2002:	14
January 29, 2002:	7
March 27, 2002:	10
June 28, 2002:	15
October 10, 2002:	3

- (c) **Attended the hearing:**
 - February 19, 2003: 19
 - March 2, 2004: 19
- (d) **Testified at the hearing:**
 - February 19, 2003: 19
 - March 2, 2004: 19

(e) **Submitted to the agency written comments:** Written comments were submitted to the Commission by the Attorney General’s Bureau of Consumer Protection; the Commission’s Regulatory Operations Staff; Washoe County Senior Law Project; SBC Nevada d/b/a Nevada Bell; Central Telephone Company-Nevada d/b/a Sprint of Nevada & Sprint Communications Company LP; MCI WorldCom, Inc.; Pac-West Telecomm, Inc.; XO Communications; Cox Communications; Advanced Telcom Group, Inc.; Humboldt Telephone Company; Sierra Pacific Power Company; Nevada Power Company; Southwest Gas Corporation; Southern Nevada Water Authority; Verizon California Inc. d/b/a Verizon Nevada; AT&T Communications of Nevada, Inc.; Citizen Communications; Nevada Telecommunications Association; Billing Concepts, Inc.; U.S. TelePacific Corporation d/b/a TelePacific Communications; Thelma Clark, Senior Advocate; Carol Ranalli; Mpower Communications Corporation; American Association For Retired Persons; NOS Communications Inc.; Affinity Network Incorporated; Qwest; and the Clark County Dept. of Business License.

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by publication in the newspapers, as outlined in #1 above, and by direct mail to interested persons subscribing to the Commission’s mailing list. The electric and gas utilities responded to the regulations by filing a consensus version of the regulations on December 17, 2002. The telecommunications companies, in general, responded in support of the changes to the regulations, with the exception of some issues, such as the font size of certain notices. The affected water companies made no comment to the regulations. A copy of the summary may be obtained by calling the Commission at (775) 687-6001 or (702) 486-2600, or by writing to the Commission at 1150 East William Street, Carson City, Nevada 89701 or 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulations were adopted with changes proposed by the companies and interested persons.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) **Both adverse and beneficial effects; and**
- (b) **Both intermediate and long-term effects.**

The companies affected by these regulations may experience some adverse economic effect from the implementation of the regulation. However, the cost is expected to be minimal.

There is expected to be a beneficial economic effect upon the regulated companies in so far as the regulations provide clear guidance to the companies regarding customer billing issues.

There should be no adverse economic effect from the implementation of the regulation on the public. There is expected to be a beneficial effect upon the public in so far as the regulations provide the public with added protections.

The regulation is expected to have intermediate and long-term beneficial economic effects upon the regulated community. The intermediate and long-term economic effect on the public is also expected to be beneficial.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement of this regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations that the proposed regulation duplicates.

8. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The proposed regulation does not include provisions that are more stringent than a federal regulation which regulates the same activity.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation does not provide or involve a new fee, and hence since no fee is involved, there is not a total amount expected to be collected or used.

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

In re: proposed rulemaking to amend and adopt)
regulations pursuant to AB 661 Section 40.5 and the)
Consumer Bill of Rights (NAC 704.302 to 704.390,) Docket No. 01-3015
inclusive, and 704.395 to 704.424, inclusive).)
_____)

At a general session of the Public Utilities
Commission of Nevada, held at its offices on
January 12, 2005.

PRESENT: Chairman Donald L. Soderberg
Commissioner Carl B. Linvill
Commission Secretary Crystal Jackson

ORDER ADOPTING REGULATIONS

The Public Utilities Commission of Nevada (“Commission”) makes the following findings of fact and conclusions of law:

1. On February 21, 2001, the Commission voted to open a rulemaking docket for the purpose of revising the Consumer Bill of Rights, which has been designated Docket No. 01-3015.
2. On September 20, 2001, the Commission voted to expand the scope of Docket No. 01-3015 to include Assembly Bill 661 Section 40.5.
3. These matters come within the purview of the Commission’s jurisdiction pursuant to Chapters 703 and 704 of the Nevada Revised Statutes and the Nevada Administrative Code.
4. On March 23, 2001, the Commission issued a Notice of Workshop and a Procedural Order.
5. On June 19, 2001, Procedural Order No. 2 was issued.
6. On October 18, 2001, Procedural Order No. 3 was issued.
7. On December 20, 2001, a Notice of Intent to Amend/Adopt/Repeal Regulations, Notice of Workshops, and Notice of Hearing was issued. Procedural Order No. 4 was also issued on December 20, 2001.
8. On December 27, 2001, a Corrected Notice of Workshops was issued.
9. On January 3, 2002, Corrected Procedural Order No. 4 was issued.

10. On January 16, 2002, an Order was issued approving the report of the Commission's Regulatory Operations Staff ("Staff") that the proposed regulations do not impose a direct and significant economic burden upon small business.

11. On February 27, 2002, Procedural Order No. 5 was issued.

12. On April 1, 2002, an Order was issued granting a motion for leave to file comments late.

13. On April 22, 2002, a Re-Notice of Intent to Amend/Adopt/Repeal Regulation and Notice of Workshop was issued.

14. On August 12, 2002, a Notice of Intent to Amend/Adopt/Repeal Regulations and Notice of Workshop was issued, in addition to a Procedural Order.

15. On October 23, 2002, an Order was issued approving Staff's report that the proposed regulations do not impose a direct and significant economic burden upon small business.

16. On November 20, 2002, a Notice of Hearing was issued.

17. On December 18, 2002, a Notice of Intent to Amend/Adopt/Repeal Regulations and Notice of Hearing was issued.

18. On January 14, 2004, a Notice of Intent to Amend/Adopt/Repeal Regulations and Notice of Hearing was issued.

19. Appearances were made at the workshops and hearings by interested persons, including the Attorney General's Bureau of Consumer Protection; Staff; Washoe County Senior Law Project; SBC Nevada d/b/a Nevada Bell; Central Telephone Company-Nevada d/b/a Sprint of Nevada & Sprint Communications Company LP; MCI WorldCom, Inc.; Pac-West Telecomm, Inc.; XO Communications; Cox Communications; Advanced Telcom Group, Inc.; Humboldt Telephone Company; Sierra Pacific Power Company; Nevada Power Company; Southwest Gas Corporation; Southern Nevada Water Authority; Verizon California Inc. d/b/a Verizon Nevada; AT&T Communications of Nevada, Inc.; Citizen Communications; Nevada Telecommunications Association; Billing Concepts, Inc.; U.S. TelePacific Corporation d/b/a TelePacific Communications; Thelma Clark, Senior Advocate; Carol Ranalli; Mpower Communications Corporation; American Association For Retired Persons; NOS Communications Inc.; Affinity Network Incorporated; and the Clark County Dept. of Business License.

20. On December 28, 2004, the Commission voted at a duly-noticed public meeting to adopt the attached regulations (attached hereto as Attachment 1 and as modified by Attachment 2) as temporary.

21. The Commission finds that it would be in the public interest to adopt the temporary regulations (attached hereto as Attachment 1 with the modifications attached hereto as Attachment 2) as permanent. Furthermore, the Commission finds that it would be in the public interest to allow the utilities until June 30, 2005 to come into compliance with these regulations. THEREFORE, based on the foregoing findings of fact and conclusions of law, it is hereby ORDERED that:

1. The temporary regulations attached hereto as Attachment 1 are ADOPTED as permanent and as modified by Attachment 2.

2. The utilities affected by the regulations (attached hereto as Attachment 1 and as modified by Attachment 2) SHALL have until **June 30, 2005** to come into compliance with the regulations.

3. The Commission retains jurisdiction for the purpose of correcting any errors which may have occurred in the drafting or issuance of this Order.

By the Commission,

DONALD L. SODERBERG, Chairman

CARL B. LINVILL, Commissioner

Attest: _____
CRYSTAL JACKSON, Commission Secretary

Dated: Carson City, Nevada

(SEAL)