

**LCB File No. T020-02**

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

**BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA**

Rulemaking to investigate and evaluate Nevada )  
Administrative Code Sections 704.7891, 704.7898 and ) Docket No. 00-9030  
704.7913 to determine if any such regulations should be )  
amended or repealed. )  
\_\_\_\_\_ )

**NOTICE OF INTENT TO AMEND/ADOPT/REPEAL REGULATIONS,  
NOTICE OF WORKSHOP AND NOTICE OF HEARING**

NOTICE IS HEREBY GIVEN that the Public Utilities Commission of Nevada (“Commission”) will hold a WORKSHOP on **Tuesday, December 3, 2002, at 10:00 a.m.**, at the offices of the Commission, Hearing Room A, 1150 E. William Street, Carson City, Nevada 89701 and Hearing Room A, 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109, at which time interested persons may appear and be heard. The purpose of this workshop is to receive comments from all interested persons pertaining to the Commission’s investigation and evaluation of Nevada Administrative Code (“NAC”) Sections 704.7891, 704.7898 and 704.7913 to determine if any such regulations should be amended or repealed.

NOTICE IS ALSO GIVEN that the Commission will hold a HEARING on **Tuesday, December 3, 2002, at 1:00 p.m.**, at the offices of the Commission, Hearing Room A, 1150 E. William Street, Carson City, Nevada 89701 and Hearing Room A, 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109, at which time interested persons may appear and be heard. The purpose of this hearing is to receive comments from all interested persons pertaining to the Commission’s investigation and evaluation of NAC Sections 704.7891, 704.7898 and 704.7913 to determine if any such regulations should be amended or repealed.

The following information is provided pursuant to the requirements of NRS 233B.0603:

In September of 2000, pursuant to a stipulation filed with the Second Judicial District Court of Nevada in Case No. CV99-01743, the Commission opened a rulemaking docket to investigate and evaluate NAC Sections 704.7891, 704.7898 and 704.7913 to determine if any such regulations should be amended or repealed. This matter has been designated by the Commission as Docket No. 00-9030.

The proposed amended regulations potentially affect all entities that are distribution companies and affiliates providing utility services. At this time, the Commission cannot quantify either the adverse or beneficial economic effects on the entities affected by the regulation or the public, either immediate or long-term, which may result from the regulation.

The Commission envisions an increase in costs associated with enforcement of these proposed regulations. The regulations do not overlap or duplicate any other state or local federal government regulation, nor do they establish any new fee or increase an existing fee.

Persons wishing to comment upon the proposed action of the Commission may appear at the scheduled public workshop and hearing or address their comments, data, views, or arguments, in written form, to the Secretary of the Commission, 1150 East William Street, Carson City, Nevada 89701 or 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109. Persons submitting written comments, data, views, or arguments may file them at either of the Commission's offices **on or before Friday, November 15, 2002.**

A copy of this notice and the proposed regulations will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulations will be available at the offices of the Commission, at 1150 East William Street, Carson City, Nevada 89701 or 101

Convention Center Drive, Suite 250, Las Vegas, Nevada 89109; and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulations will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adopting any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice has been posted at the county courthouses located in Reno, Carson City, and Las Vegas.

By the Commission,

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CRYSTAL JACKSON, Commission Secretary

Dated: Carson City, Nevada

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(SEAL)

# PROPOSED TEMPORARY REGULATION OF THE PUBLIC UTILITIES COMMISSION OF NEVADA

## Docket No. 00-9030

Proposed language to delete is in ~~red strike through~~ and proposed new language is in *blue italics*

**NAC 704.7891 “Affiliate Defined”** (NRS 703.025, ~~704.980, 704.981,~~ 704.997, 704.998)  
“Affiliate” ~~[means a company that is a branch, division or subsidiary of a distribution company that:]~~ *has the meaning ascribed to it in NRS 78.412.*

~~[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 704.7898 Business relationship between distribution company and affiliate:  
Requirements; restrictions** (NRS 703.025, ~~704.980, 704.981,~~ 704.997, 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. *In such event, [F] the affiliate and the distribution company must:*
    - (1) File the contract with the commission as a joint application ~~[later than 6 months before the effective date of the contract]~~ *the effective date of which shall not be prior to commission approval;* 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 *or she* becomes an employee of the affiliate, sign a statement indicating that the employee has read and will be able to abide by the restrictions set forth in this section and understands that a violation of this provision could subject him *or her* to the penalties set forth in NAC 704.7919.

**NAC 704.7913 Affiliate: Standards of conduct.** (NRS 703.025, ~~704.980, 704.981,~~ 704.997, 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 m]~~ 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]~~ 3. 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]~~ 4. ~~[Shall not advertise]~~ *When advertising* its affiliation with the distribution company, ~~[unless]~~ the affiliate ~~[includes]~~ *must include* each of the following statements in a manner no less prominent than the statement of affiliation:

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

b [Name of the 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.