

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

**LCB File No. R005-04**

Effective June 21, 2004

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

AUTHORITY: §§1 and 2, NRS 703.025, 704.210, 704.997 and 704.998.

A REGULATION relating to competitive natural gas service; eliminating certain restrictions on the use of the name or logo, or both, of a distribution company by an affiliate; and providing other matters properly relating thereto.

**Section 1.** NAC 704.7891 is hereby amended to read as follows:

704.7891 “Affiliate” means a company that ~~is~~ :

*1. Is* a branch, division or subsidiary of a distribution company ~~that~~:

~~1. Provides]; and~~

*2. 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.]~~

**Sec. 2.** NAC 704.7913 is hereby amended to read as follows:

704.7913 *1.* An affiliate:

~~1.]~~ *(a)* Shall not market or otherwise sell services jointly with the distribution company;

~~2. Shall not have a name, logo, trademark, 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, trademark, 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, trademark 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, trademark, 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.]~~ (b) 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.]~~ (c) 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)]~~ (1) (Name of the affiliate) is not the same corporation as (name of distribution company). (Name of affiliate) has separate management and separate employees.

~~[(b)]~~ (2) (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.

~~[(e)]~~ (3) 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.

*2. For the purposes of this section, the term “advertise” does not include the use, pursuant to NRS 704.997, of the name or logo, or both, of the distribution company by the affiliate.*

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R005-04**

The Public Utilities Commission adopted regulations assigned LCB File No. R005-04 which pertain to chapter 704 of the Nevada Administrative Code on May 5, 2004

**Notice date:** 10/18/2000 & 1/6/2004  
**Hearing date:** 2/23/2004

**Date of adoption by agency:** 5/5/2004  
**Filing date:** 6/21/2004

**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. 00-9030 was noticed two times on October 18, 2000 and January 6, 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 no general public response. Comments were solicited two times, on October 18, 2000 and October 20, 2003. Comments were filed by Southwest Gas Company, the Regulatory Operations Staff of the Commission, Shell Energy, LLC, Sierra Pacific Power Company, Nevada Power Company and the Bureau of Consumer Protection (“BCP”). A copy of the summary may be obtained by calling the Commission at (775) 687-6001 or (702) 486-7242, 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:**
  - December 3, 2002** 6
  - February 23, 2004** 5
- (b) Testified at the workshop:**
  - October 1, 2001:** 6
  - November 15, 2001:** 5
- (c) Attended the hearing:**
  - February 23, 2004:** 5
- (d) Testified at the hearing:**
  - February 23, 2004** 5

**(e) Submitted to the agency written comments:** Written comments were submitted to the Commission by the Regulatory Operations Staff (“Staff”) of the Commission, Sierra Pacific Power Company (“Sierra”), Nevada Power Company (“NPC”), the BCP, and Shell Energy.

**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 A Notice to Solicit Comments issued October 18, 2000 and a Request for Comments issued on October 20, 2003. A copy of the summary may be obtained by calling the Commission at (775) 687-6001 or (702) 486-7242, 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 BCP proposed that NAC 704.7891 change the definition of affiliate to be much broader and more inclusive. The other parties did not agree and were satisfied with the definition as it had been.

The Presiding Officer was not persuaded that the definition of affiliate should change and so it was left as it was and only language pertaining to electric deregulation was deleted.

**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.**

At this time, there will be no beneficial or adverse effects on the utilities as the regulations dealt with deregulation which was discontinued for the electric industry pursuant to legislation in 2001. The gas industry would only be affected should the definition of affiliate become applicable to it at sometime in the future.

The intermediate and long-term economic effect would be the ability to regulate the gas industry at a future date.

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

At a general session of the Public Utilities  
Commission of Nevada, held at its offices  
on April 28, 2004.

PRESENT: Chairman Donald L. Soderberg  
Commissioner Adriana Escobar Chanos  
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 September 15, 2000, pursuant to a Stipulation filed with the Second Judicial District Court of Nevada in Case No. CV99-01743, the Public Utilities Commission of Nevada (“Commission”) opened a rulemaking docket, designated as Docket No. 00-9030, to investigate and evaluate Nevada Administrative Code (“NAC”) Sections 704.7891, 704.7898, and 704.7913 to determine if any such regulations should be amended or repealed.

2. On October 18, 2000, the Commission issued a Notice to Solicit Comments to Amend or Repeal Regulations. Comments were filed by the Regulatory Operations Staff (“Staff”) of the Commission, Shell Energy, LLC, Sierra Pacific Power Company (“SPPC”), Nevada Power Company (“NPC”), and Southwest Gas Corporation (“SWG”).

3. On December 28, 2000, the Commission voted to accept Staff's recommendation that the proposed regulation did not impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business.

4. On October 22, 2002, the Presiding Officer issued a Procedural Order requiring Staff to submit a recommendation regarding a small business impact statement for a Commission decision prior to another workshop and hearing scheduled for December 3, 2002.

5. On November 20, 2002, the Commission again voted to accept Staff's recommendation that the proposed regulations do not impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business.

6. The Commission held a workshop on December 3, 2002. The result of the workshop was a cancellation of the hearing set for December 3, 2002 to consider the proposed regulations.

7. Docket 00-9030 was assigned to a Hearing Officer in October of 2003.

8. The Hearing Officer issued a Request for Comments on October 20, 2003.

9. Staff, the Attorney General's Bureau of Consumer Protection ("BCP"), SWG, NPC, and SPPC filed comments on or about November 21, 2003.

10. On November 24, 2003, the Hearing Officer issued a Procedural Order requiring Staff to submit a recommendation regarding another small business impact statement for Commission decision prior to another workshop and hearing scheduled for February 23, 2004.

11. On January 28, 2004, the Commission issued an Order finding that the proposed regulations did not (a) impose a direct and significant economic burden upon a small business or (b) directly restrict the formation, operation or expansion of a small business.



12. On February 23, 2004, the Hearing Officer held a workshop to consider any amendments to the proposed regulations. Pursuant to comments made at the workshop, changes were proposed to NAC 704.7913, specifically, deleting certain sections that conflicted with NRS 704.997(4). NAC 704.7898 has no proposed changes, and NAC 704.7891 has minor changes relating to terminology relevant to the elimination of deregulation of the electric industry.

13. On February 23, 2004, a duly noticed hearing was held on the proposed amended regulations.

14. Appearances were made at the workshop and hearing by interested persons, including Staff, the BCP, SWG, SPPC and NPC.

15. The Hearing Officer recommends that the Commission adopt the proposed amended regulations (attached as Attachment I and incorporated herein by reference) as being in the public interest.

16. The Commission finds that it is in the public interest to adopt the proposed amended regulations.

THEREFORE, based on the foregoing findings of fact and conclusions of law, it is hereby ORDERED that:

1. The proposed amended regulations, which are attached hereto as Attachment 1 and incorporated herein by reference, are ADOPTED.

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2. The Commission retains jurisdiction for the purpose of correcting any errors that may have occurred in the drafting of this Order.

By the Commission,

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DONALD L. SODERBERG, Chairman

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ADRIANA ESCOBAR CHANOS, Commissioner

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CARL B. LINVILL, Commissioner

Attest: \_\_\_\_\_  
CRYSTAL JACKSON, Commission Secretary

Dated: Carson City, Nevada

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(SEAL)