

LCB File No. R043-06

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

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

The following information is provided pursuant to the requirements of Nevada Revised Statutes (“NRS”) 233B.0603: On July 27, 2005, the Public Utilities Commission of Nevada (“Commission”) voted to open an investigation and rulemaking docket regarding the review and approval of tentative and final subdivision maps and potential modification of the requirements to obtain a Certificate of Public Convenience and Necessity for Water and Sewer Systems, pursuant to NRS 278.330-278.3485, NRS 704.6672 and NRS 278.335. The Commission has designated this matter as Docket No. 05-7049.

The proposed regulation would potentially affect all developers, communities and parties wishing to develop subdivisions and/or obtain a Certificate of Public Convenience and Necessity to provide water and/or wastewater utility service.

The methodology used by Staff to measure the adverse or beneficial economic effects on small business and the public is a simplified Delphi method. Experts review the text of the proposed regulation and determine the likely impact of the regulation on small businesses and the public. These experts share their responses with each other and form a consensus view.

Concerning immediate beneficial and adverse effects of the proposed regulation, Staff cannot quantify the effects of this proposed regulation on small businesses and the public.

At this time Staff also cannot quantify the long-term beneficial and adverse effects of the proposed regulation on small businesses and the public.

The regulations do not overlap or duplicate any federal, state or local regulations. The regulations do not establish any new fee or increase an existing fee.

NOTICE IS HEREBY GIVEN that the Commission will hold a **WORKSHOP** on **Thursday, May 4, 2006, 11:00 a.m.**, at the offices of the Commission, Hearing Room A, 1150 E. William Street, Carson City, Nevada, 89701 and via videoconference to Hearing Room A, 101 Convention Center Drive, Suite 250, Las Vegas, Nevada, 89109, at which time interested persons may appear and be heard. This workshop may be continued day to day as necessary. The purpose of this workshop is to receive comments from all interested persons regarding the review and approval of tentative and final subdivision maps and potential modification of the requirements to obtain a Certificate of Public Convenience and Necessity for Water and Sewer Systems.

NOTICE IS ALSO HEREBY GIVEN that the Public Utilities Commission of Nevada (“Commission”) will hold a **HEARING** on **Thursday, May 4, 2006, 11:30 a.m.**, at the offices of the Commission, Hearing Room A, 1150 East William Street, Carson City, Nevada 89701 and via videoconference to Hearing Room A, 101 Convention Center Drive, Suite 250, Las Vegas, Nevada, 89109 at which time interested persons may appear and be heard. This hearing may be continued day to day as necessary. The purpose of this hearing is to receive comments from all interested persons regarding the review and approval of tentative and final subdivision maps and potential modification of the requirements to obtain a Certificate of Public Convenience and Necessity for Water and Sewer Systems.

Persons wishing to comment upon the proposed action of the Commission may appear at the scheduled public workshop or 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. Written submissions must be received by the Commission **on or before Friday, April 21, 2006, at 3 pm**

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,

CRYSTAL JACKSON, Commission Secretary

Dated: Carson City, Nevada

(SEAL)

LCB File No. R043-06

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

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

AUTHORITY: §§1-3, NRS 703.025, 704.185, 704.187 and 704.210; §§4-6, NRS 703.025, 704.187 and 704.210.

Section 1. *NAC 703.XXX*

A tentative subdivision map filed with the Commission, pursuant to NRS 278.335, shall be simultaneously filed with the Staff of the Commission for review.

Sec. 2. *NAC 703.XXX*

1. Within 15 days of receipt of a tentative subdivision map, pursuant to NRS 278.335, Staff shall file comments in writing with the planning commission or the appropriate governing body consistent with NRS 278.335(5). The comments will also be filed with the Health Division of the Department of Human Resources and Division of Water Resources of the Department of Conservation and Natural Resources. The comments shall:

- (a) state that the proposed tentative subdivision identified in the tentative map is not subject to NRS 704.6627, or*
- (b) state that the proposed tentative subdivision identified in the tentative map is subject to NRS 704.6627.*

2. If the proposed tentative subdivision identified in the tentative map is subject to NRS 704.6627, staff shall make clear in its comments that the applicant for the proposed subdivision must file with the Commission an application seeking approval of the final subdivision map and provide the information required by NAC 703.203.

Sec. 3. *NAC 703.XXX*

The comments filed by Staff, consistent with Section 2 of the proposed regulations, will also be filed with the Health Division of the Department of Human Resources and the Division of Water Resources of the Department of Conservation and Natural Resources.

Sec. 4. *NAC 703.XXX*

The Commission will send written verification of its approval or disapproval of an application filed pursuant to NAC 703.203 to the Health Division of the Department of Human Resources, consistent with NRS 278.377(1)(a)(2), and the Division of Water Resources of the Department of Conservation and Natural Resources, consistent with NRS 278.377(1)(b), within 2 business days of issuance of a final order in the matter.

Sec. 5. NAC 703.XXX Amendments to certificates of public convenience and necessity by water and wastewater utilities.

In the case of annexations by existing water and wastewater utilities, in addition to all other applicable requirements of NAC 703.175, an application must include:

- 1. The information in NAC 703.190, as it pertains to the service area to be annexed.*
- 2. The anticipated effect, if any, the annexation will have on the utility's ability to provide reasonable and adequate service and facilities to its existing customers.*

Sec. 6. NAC 703.XXX Reserves

On February 1st of each year for the first five years after obtaining a certificate of public convenience and necessity, a water or wastewater utility must file an application with the Commission demonstrating that the utility has maintained an average of 25% of its annual operating budget in a reserve account for the utility.

Sec. 7. NAC 703.190 Specific requirements for water ~~[companies]~~ utilities.

~~[1. In addition to all applicable requirements of NAC 703.175, an application for a certificate of public convenience and necessity, or an application to amend an existing certificate of public convenience and necessity, to provide water service must include a description of the proposed service area or proposed addition to an existing service area, including:~~

~~—(a) An estimate of the number of customers and of the water requirements for the proposed service area or addition.~~

~~—(b) A plan that demonstrates the continuing ability of the utility to meet the needs, relating to water resources, of the entire service area to be served by the utility. In lieu of such a plan, the utility may provide information which demonstrates that the utility has adequate resources to meet such needs, including, without limitation:~~

~~—(1) Copies of all documents evidencing water rights and accompanying maps.~~

~~(2) A description of the source of the water, such as a spring, river, lake or underground water supply.~~

~~(3) Hydrological data defining the reliability of the source.~~

~~(4) Copies of applicable well logs and pump tests showing production as a function of draw down versus time.~~

~~(5) Any additional information which is necessary to demonstrate the ability of the utility to meet such needs.~~

~~—(c) A general description, including applicable maps of required facilities, which demonstrates the ability of the utility to provide adequate water service to the proposed service area or addition, including, but not limited to:~~

~~(1) Facilities for water storage;~~

~~(2) Facilities for water treatment;~~

~~(3) Wells;~~

~~(4) Pumps; and~~

~~(5) Mains for distribution or transmission, or both.~~

~~—(d) Flow analysis calculations or computer modeling outputs which demonstrate the ability of the utility to provide an acceptable level of service.~~

~~—(e) Written agreements or statements from property owners, approved subdivision maps and any other documentation that demonstrates the need for water service in the area for which the certificate or amended certificate is requested.~~

~~2. In addition to the information required by subsection 1, a utility requesting an initial certificate of public convenience and necessity must include with its application:~~

~~—(a) Copies of the latest quality tests, both mineral and biological, made on the water and a comparison of the results with the standards established by the local government.~~

~~—(b) A brief description of the operation of the facilities to be used to maintain quality.~~

~~—(c) Results of any test relating to the flow of fire hydrants performed by the local authority responsible for fire protection.~~

~~—(d) A map depicting the location of each facility of the water system, and indicating its size, the material of which it is made and the date of its installation. If an accurate map of the current system is not available, the application must state what action is being taken to prepare such a map.~~

~~—(e) A description of existing and proposed emergency standby facilities for production, storage and maintenance of pressure to serve the proposed service area.~~

~~—(f) A statement of the estimated operating revenues and expenses, including taxes and depreciation, for the first 5 years of operation in the proposed service area, for each major class of service. If the applicant anticipates that the utility will initially operate at a loss, the statement must identify the sources of money that will be used to sustain the operation of the utility during that initial period.~~

~~—(g) A description of the operating plans for the proposed service area, including, but not limited to:~~

~~(1) The name, address and telephone number of each principal manager and each certified operator of the utility.~~

~~(2) A description of:~~

~~—(I) The operation of the water system, including manual, automatic or timed functions, and the name of any person responsible for its daily operation.~~

~~—(II) The normal procedures for maintenance used to ensure the proper operation of the system.~~

~~—(III) The program, if any, under which worn out facilities are to be replaced.~~

~~(3) The name of the person to contact when the system is not operating properly and the manner in which he may be contacted.~~

~~(4) The manner in which repairs to the system are recorded.~~

~~(5) The name of the person a customer may contact when he has a complaint and the manner in which that person may be contacted.~~

~~(6) An explanation of whether and to what extent customers will directly or indirectly make contributions to the costs of the facilities of the proposed water or sewer system. The explanation must indicate whether the applicant intends to assess charges or has assessed charges for the extension of any lines and whether the price of lots or units in the subdivision will reflect the cost of the developer's investment in the proposed system.]~~

In the case of a water utility, in addition to all other applicable requirements of NAC 703.175, an application must include the following information regarding its technical, managerial, and financial capability to operate the system in a reliable manner and provide continuous and adequate service to its customers:

1. To demonstrate technical capability, the applicant must provide:

(a) Evidence that there is a need for a water utility and no other utility is willing or able to serve the proposed service area.

(b) Written agreements or statements from property owners, approved subdivision maps and any other documentation that demonstrates the need for water service in the area for which the certificate is requested.

(c) Evidence that any required construction or operating permit from other State and local agencies has been obtained and is in effect, or that an application for such a permit has been submitted to other State and local agencies and the date of its anticipated issuance.

(d) A plan that demonstrates the continuing ability of the utility to meet the needs, relating to water resources of the entire service area to be served by the utility. In lieu of such a plan, the utility may provide information which demonstrates that the utility has adequate resources to meet such needs, including, without limitation:

(1) Copies of all documents evidencing water rights and accompanying maps.

(2) Hydrological data defining the reliability of the source.

(3) Any additional information which is necessary to demonstrate the ability of the utility to meet such needs.

(e) An estimate of the number of customers to be served in the proposed service area through the first five years of service, and the estimated number of customers at build out of the proposed service area.

(f) A full description of the proposed water system including the proposed normal operating and emergency standby water facilities to serve the area for which the certificate is sought.

(g) If the utility facilities will be phased in as customers are added, a description of the phasing thresholds for each utility facility that will be phased in.

2. To demonstrate managerial capability, the applicant must provide:

(a) An operations and maintenance plan for the proposed water utility, including, but not limited to:

(1) The contact information for all managers, certified operators, and customer service representatives of the system;

(2) The normal procedures for maintenance used to ensure the proper operation of the water system; and

(3) A plan describing how worn out utility facilities are to be replaced.

(b) A standard operations procedure for all employee communications not covered by the proposed tariff;

(c) A training protocol for all employees; and

(d) Evidence that the applicant will maintain its books and records consistent with the system of accounts established by the National Association of Regulatory Utility Commissioners for water utilities.

3. To demonstrate financial capability, the applicant must provide:

(a) An explanation of whether and to what extent customers will directly or indirectly make contributions to the costs of the facilities of the proposed water system. The explanation must include an indication of whether the applicant intends to assess charges for the extension of any lines and whether the price of lots or units in the proposed service area will reflect the cost of the investment in the proposed system.

(b) Evidence that the proposed revenues from reasonable rates will give the applicant an opportunity to earn a fair return on its investment;

(c) *A statement of the estimated operating revenues and expenses, including taxes and depreciation, for the first 5 years of operation in the proposed service area for each major class of service. If the applicant anticipates that the system will initially operate at a loss, the statement must identify the sources of money that will be used to sustain the operation of the system during that initial period.*

(d) *A depreciation schedule for the different water treatment facilities;*

(e) *A method for replacing rate base when the utility facility reaches the end of its service life; and*

(f) *Evidence that the applicant has obtained a good and sufficient bond in favor of the State in an amount and for a period of time acceptable to the Commission to ensure that the applicant will meet its obligations under its certificate.*

(1) *A copy of a bond(s) deposited with the federal government or local government may be substituted for the one required pursuant to subsection (f).*

Sec. 8. NAC 703.195 Specific requirements for ~~[sewer companies]~~ *wastewater utilities.*

In the case of a ~~[sewer company]~~ wastewater utility, in addition to all other applicable requirements of NAC 703.175, an application must include *the following information regarding its technical, managerial, and financial capability to operate the system in a reliable manner and provide continuous and adequate service to its customers:*

~~— 1. Evidence that any required construction or operating permit has been obtained and is in effect, or that an application for such a permit has been submitted and the date of its anticipated issuance.~~

~~— 2. An estimate of the number of customers to be served in the area for which the certificate is sought and the requirements for sewer service for the first 5 years of operation.~~

~~— 3. Any anticipated future development of the system and a description of the proposed normal and emergency standby sewerage facilities for treatment and storage to serve the area for which the certificate is sought.~~

~~— 4. A statement of the estimated operating revenues and estimated expenses, including taxes and depreciation, for the first year of operation in the proposed area, for each major class of service.~~

~~— 5. A comparison of the design capacity of the system and the anticipated load.~~

~~— 6. A description of the operating plans for the proposed area. If the applicant has operated as a sewer utility in this State, the description must include a statement as to whether the proposed area will be served by new personnel. If the applicant has not operated as a sewer utility in this State, the description must include, if available, but is not limited to:~~

~~— (a) For each principal manager and each of the operating personnel, his name, position and the address and telephone number of his business.~~

~~— (b) A brief description of:~~

~~— (1) The operation of the sewer system, including manual, automatic or timed functions and the name of any person responsible for its daily operation.~~

~~— (2) The normal procedures for maintenance used to ensure the proper operation of the system.~~

~~— (3) The program, if any, under which worn out facilities are replaced.~~

~~— (c) The name of the person to contact when the system malfunctions, the manner in which he may be contacted, and the name of the person responsible for performing the necessary repairs.~~

- ~~—(d) The manner in which repairs to the system are recorded.~~
- ~~—(e) The name of the person a customer may contact when he has a complaint and the manner in which that person may be contacted.~~
- ~~—(f) An explanation of whether and to what extent customers will directly or indirectly make contributions to the costs of the facilities of the proposed water or sewer system. The explanation must include an indication of whether the applicant intends to assess charges for the extension of any lines and whether the price of lots or units in the subdivision will reflect the cost of the developer's investment in the proposed system.]~~

In the case of a wastewater utility, in addition to all other applicable requirements of NAC 703.175, an application must include the following information regarding its technical, managerial, and financial capability to operate the system in a reliable manner and provide continuous and adequate service to its customers:

1. To demonstrate technical capability, the applicant must provide:

(a) Evidence that there is a need for a wastewater utility and no other utility is willing or able to serve the proposed service area.

(b) Written agreements or statements from property owners, approved subdivision maps and any other documentation that demonstrates the need for wastewater service in the area for which the certificate is requested.

(c) Evidence that any required construction or operating permit from other State and local agencies has been obtained and is in effect, or that an application for such a permit has been submitted to other State and local agencies and the date of its anticipated issuance.

(d) A plan that demonstrates the continuing ability of the utility to meet the needs, relating to wastewater treatment and disposal of the entire service area to be served by the utility.

(e) An estimate of the number of customers to be served in the proposed service area through the first five years of service, and the estimated number of customers at build out of the proposed service area.

(f) A full description of the proposed wastewater system including the proposed normal operating and emergency standby wastewater facilities to serve the area for which the certificate is sought.

(g) If the utility facilities will be phased in as customers are added, a description of the phasing thresholds for each utility facility that will be phased in.

2. To demonstrate managerial capability, the applicant must provide:

(a) An operations and maintenance plan for the proposed wastewater utility, including, but not limited to:

(1) The contact information for all managers, certified operators, and customer service representatives of the system;

(2) The normal procedures for maintenance used to ensure the proper operation of the water system; and

(3) A plan describing how worn out utility facilities are to be replaced.

(b) A standard operations procedure for all employee communications not covered by the proposed tariff;

(c) A training protocol for all employees; and

(d) Evidence that the applicant will maintain its books and records consistent with the system of accounts established by the National Association of Regulatory Utility Commissioners for water utilities.

3. To demonstrate financial capability, the applicant must provide:

(a) An explanation of whether and to what extent customers will directly or indirectly make contributions to the costs of the facilities of the proposed wastewater system. The explanation must include an indication of whether the applicant intends to assess charges for the extension of any lines and whether the price of lots or units in the proposed service area will reflect the cost of the investment in the proposed system.

(b) Evidence that the proposed revenues from reasonable rates will give the applicant an opportunity to earn a fair return on its investment;

(c) A statement of the estimated operating revenues and expenses, including taxes and depreciation, for the first 5 years of operation in the proposed service area for each major class of service. If the applicant anticipates that the system will initially operate at a loss, the statement must identify the sources of money that will be used to sustain the operation of the system during that initial period.

(d) A depreciation schedule for the different wastewater treatment facilities;

(e) A method for replacing rate base when the utility facility reaches the end of its service life; and

(f) Evidence that the applicant has obtained a good and sufficient bond in favor of the State in an amount and for a period of time acceptable to the Commission to ensure that the applicant will meet its obligations under its certificate.

(1) A copy of a bond(s) deposited with the federal government or local government may be substituted for the one required pursuant to subsection (f).

Sec. 9. NAC 703.203 Requirements for new subdivision or other development.

An application for *approval of* a ~~[new] final~~ subdivision *map* ~~[or other development of land]~~ furnished to the Commission as required by NRS 704.6672 must include the following information in the application or as exhibits attached thereto:

~~1. A map showing all lines, valves and facilities of the proposed water or sewer system, the size of the system and specifications of the materials to be used.~~

~~2. A brief summary of applicable water rights.~~

~~3. Copies of all documents evidencing water rights and accompanying maps and the status of those rights.~~

~~4. A description of the source of the water, such as a spring, river, lake or underground water supply.~~

~~5. If the source of the water is on the surface of the ground, hydrological data defining the reliability of the source, and the capacity and ratings of any mechanical or storage facility, or both.~~

~~6. If the source of the water is below the surface of the ground, copies of well logs and pumping tests showing production as a function of draw down and time.~~

~~7. Copies of the latest tests for quality, both mineral and biological, made on the water and a comparison of the results with the standards established by the local government.~~

~~8. A brief description of the operation of the facilities proposed to maintain quality.~~

~~9. A brief description of proposed storage facilities, the storage capacity in gallons of each facility, and a comparison of the proposed storage capacity and the initial storage requirements. The method of calculating initial storage requirements must be clearly shown.~~

~~10. Evidence that the planned facilities to provide water for fire protection meet the requirements of the authority having jurisdiction in the service area.~~

- ~~11. Results of tests made to determine the flow of the water.~~
- ~~12. Evidence that all required permits have been granted and are in effect or that applications for all permits have been submitted and the anticipated dates of issuance.~~
- ~~13. A description of the proposed facilities for sewage treatment.~~
- ~~14. A comparison of the designed capacity of the facilities and the projected loads.]~~
- ~~15. An explanation of whether and to what extent customers will directly or indirectly make contributions to the costs of the facilities of the proposed water or sewer system. The explanation must include an indication of whether the applicant intends to assess charges for the extension of any lines and whether the price of lots or units in the subdivision will reflect the cost of the developer's investment in the proposed system.]~~

1. Evidence that the applicant has filed an application with the commission for a certificate of public convenience and necessity.

2. In lieu of an application for a certificate of public convenience and necessity, evidence that the applicant will have the technical, managerial, and financial capability to operate the water and/or wastewater system in a reliable manner and provide continuous and adequate service to its customers.

3. To demonstrate technical capability, the applicant must provide:

(a) Evidence that there is a need for a water and/or wastewater service and no other utility is willing or able to serve the proposed service area.

(d) A plan that demonstrates the continuing ability of the applicant to meet the needs, relating to water resources and/or wastewater treatment and disposal, of the entire service area to be served by the applicant. For water resources, in lieu of such a plan, the applicant may provide information which demonstrates that the applicant has adequate resources to meet such needs, including, without limitation:

(1) Copies of all documents evidencing water rights and accompanying maps.

(2) Hydrological data defining the reliability of the source.

(3) Any additional information which is necessary to demonstrate the ability of the applicant to meet such needs.

(e) An estimate of the number of customers to be served in the proposed service area through the first five years of service, and the estimated number of customers at build out of the proposed service area.

(f) A full description of the proposed water and/or wastewater system including the proposed normal operating and emergency standby water and/or wastewater facilities to serve the area for which the certificate is sought.

(g) If the applicant's facilities will be phased in as customers are added, a description of the phasing thresholds for each facility that will be phased in.

4. To demonstrate managerial capability, the applicant must provide:

(a) An operations and maintenance plan for the proposed water and/or wastewater system, including, but not limited to:

(1) The contact information for all managers, certified operators, and customer service representatives of the system;

(2) The normal procedures for maintenance used to ensure the proper operation of the water system; and

(3) A plan describing how worn out facilities are to be replaced.

(b) A standard operations procedure for all employee communications;

(c) A training protocol for all employees; and

(d) Evidence that the applicant will maintain its books and records consistent with the system of accounts established by the National Association of Regulatory Utility Commissioners for water and/or wastewater utilities.

5. To demonstrate financial capability, the applicant must provide:

(a) An explanation of whether and to what extent customers will directly or indirectly make contributions to the costs of the facilities of the proposed water system. The explanation must include an indication of whether the applicant intends to assess charges for the extension of any lines and whether the price of lots or units in the proposed service area will reflect the cost of the investment in the proposed system.

(b) Evidence that the proposed revenues from reasonable rates will give the applicant an opportunity to earn a fair return on its investment;

(c) A statement of the estimated operating revenues and expenses, including taxes and depreciation, for the first 5 years of operation in the proposed service area for each major class of service. If the applicant anticipates that the system will initially operate at a loss, the statement must identify the sources of money that will be used to sustain the operation of the system during that initial period.

(d) A depreciation schedule for the different water and/or wastewater treatment facilities;

(e) A method for replacing rate base when the facility reaches the end of its service life; and

(f) Evidence that the applicant has obtained a good and sufficient bond in favor of the State in an amount and for a period of time acceptable to the Commission to ensure that the applicant will meet its obligations under its certificate.

(1) A copy of a bond(s) deposited with the federal government or local government may be substituted for the one required pursuant to subsection (f).