

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

LCB File No. R043-06

August 8, 2006

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

AUTHORITY: §§1 and 4-8, NRS 703.025; §§2, 3 and 9, NRS 703.025 and 704.6672.

A REGULATION relating to public utilities; revising provisions governing the review and approval of tentative and final maps for a subdivision; revising provisions governing certificates of public convenience and necessity; and providing other matters properly relating thereto.

Section 1. Chapter 703 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. 1. *When a copy of a tentative map for a subdivision is submitted to the Commission pursuant to NRS 278.335, an additional copy of the tentative map must be simultaneously submitted to the Commission's staff for review.*

2. In addition to the written comments required by subsection 5 of NRS 278.335, the Commission's staff will, within the period specified therein, also file written comments with:

(a) The planning commission or the governing body described in subsection 5 of NRS 278.335;

(b) The Division of Water Resources of the State Department of Conservation and Natural Resources; and

(c) The Division of Environmental Protection of the State Department of Conservation and Natural Resources or the district board of health acting for the Division pursuant to subsection 2 of NRS 278.335.

3. The written comments required by subsection 2 will:

(a) State whether or not the proposed subdivision identified in the tentative map is subject to the provisions of subsections 1 and 2 of NRS 704.6672; and

(b) If the proposed subdivision is subject to those provisions, notify the applicant for the proposed subdivision that he must file with the Commission an application for approval of the final map for the subdivision and provide the information required by NAC 703.203.

Sec. 3. The Commission will send written verification of its approval or disapproval of an application for approval of the final map for a subdivision that is filed with the Commission pursuant to section 2 of this regulation to the Division of Environmental Protection of the State Department of Conservation and Natural Resources or the district board of health acting for the Division pursuant to NRS 278.335, consistent with subparagraph (2) of paragraph (a) of subsection 1 of NRS 278.377, and with the Division of Water Resources of the State Department of Conservation and Natural Resources, consistent with paragraph (b) of subsection 1 of NRS 278.377, within 2 business days after issuance of a final order in the matter.

Sec. 4. In the case of an annexation by an existing water or wastewater utility, in addition to all other applicable requirements of NAC 703.175, an application for a certificate of public convenience and necessity must include:

1. The information required by NAC 703.190 or 703.195, as it pertains to the service area to be annexed; and

2. The anticipated effect, if any, that the annexation will have on the ability of the utility to provide reasonable and adequate service and facilities to its existing customers.

Sec. 5. *After obtaining an initial certificate of public convenience and necessity to begin operations as a public utility, a water or wastewater utility shall submit, with its annual report filed with the Commission pursuant to NRS 703.191, information showing that the conditions set forth in subsections 3 to 6, inclusive, of NRS 445A.540 or subsections 4, 5, 6 and 8 of NRS 445A.895 have been met.*

Sec. 6. NAC 703.170 is hereby amended to read as follows:

703.170 The provisions of NAC 703.170 to 703.205, inclusive, *and sections 4 and 5 of this regulation* apply to an application by a public utility for a certificate to begin operations as a public utility or to construct or extend its plant or system in such a manner as to require certification under NRS ~~[704.330 to 704.380,]~~ *704.3296 to 704.430*, inclusive.

Sec. 7. NAC 703.190 is hereby amended to read as follows:

703.190 ~~[1.]~~ In *the case of a water utility, 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)]~~ *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) ~~[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)] (3) 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.~~

~~——(H)] (e) *An estimate of the number of customers to be served in the proposed service area through the first 5 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, without limitation:

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

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

~~—(III) The program, if any, under which] ; and~~

(3) A plan describing how worn-out utility 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)] (b) A standard operating procedure for all employee communications not covered by the proposed tariff.~~

(c) A training protocol for all employees.

(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 ~~for-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~~ *proposed service area* will reflect the cost of the ~~developer's~~ 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 regulated rate base.*

(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.*

(f) *A copy of a performance bond or other suitable assurance deposited with the Federal Government or local government to guarantee construction of any improvements or infrastructure required for approval of final subdivision maps.*

Sec. 8. NAC 703.195 is hereby amended to read as follows:

703.195 In the case of a ~~sewer company,~~ *wastewater utility*, in addition to all other applicable requirements of NAC 703.175, an application *for a certificate of public convenience and necessity* must include ~~:~~

~~—1.]~~ *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.

~~[2.]~~ *(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 ~~for which the certificate is sought and the requirements for sewer service for~~ through the first 5 years of ~~operation.~~

~~—3.—~~ *Any anticipated future development of the system and a] service, and the estimated number of customers at build-out of the proposed service area.*

(f) A full description of the proposed ~~[normal and emergency standby sewerage facilities for treatment and storage]~~ wastewater system, including the proposed normal operating and emergency standby wastewater facilities 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.]~~

(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, without limitation:

(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 system.

(3) ~~[(The program, if any, under which)]~~ *A plan describing how* worn-out *utility* facilities are *to be* 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)]~~ *(b) A standard operating procedure for all employee communications not covered by the proposed tariff.*

(c) A training protocol for all employees.

(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 wastewater 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 or sewer]~~ 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 ~~[subdivision]~~ proposed service area will reflect the cost of the ~~[developer's]~~ 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 regulated rate base.

(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.

(f) A copy of a performance bond or other suitable assurance deposited with the Federal Government or local government to guarantee construction of any improvements or infrastructure required for approval of final subdivision maps.

Sec. 9. NAC 703.203 is hereby amended to read as follows:

703.203 **1.** An application for *approval of a* ~~new subdivision or other development of land furnished to the Commission as required by NRS 704.6672]~~ *final map for a subdivision that was filed with the Commission pursuant to section 2 of this regulation* 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.]~~ *(a) Evidence that the applicant has filed an application with the Commission for a certificate of public convenience and necessity; or*

(b) 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 or wastewater system in a reliable manner and provide continuous and adequate service to its customers.

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

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

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

(c) A plan that demonstrates the continuing ability of the applicant to meet the needs, relating to water resources, of the entire service area to be served by the applicant or, in lieu of such a plan, an 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 . ~~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]~~

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

(d) An estimate of the number of customers to be served in the proposed service area through the first 5 years of service, and the estimated number of customers at build-out of the proposed service area.

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

(f) 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.

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

(a) An operations and maintenance plan for the proposed water or wastewater system, including, without limitation:

(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 system; and

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

(b) A standard operating procedure for all employee communications.

(c) A training protocol for all employees.

(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 or wastewater utilities.

4. 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 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]~~ *proposed service area* will reflect the cost of the ~~[developer's]~~ 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 regulated rate base.

(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 or wastewater treatment facilities.

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

(f) A copy of a performance bond or other suitable assurance deposited with the Federal Government or local government to guarantee construction of any improvements or infrastructure required for approval of final subdivision maps.