

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

LCB File No. R068-09

Effective November 25, 2009

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

AUTHORITY: §§ 1 and 3, NRS 703.025 and 704.210; § 2, NRS 703.025, 703.320, 703.380 and 704.210.

A REGULATION relating to utilities; providing for the filing of responses to petitions for leave to intervene in proceedings of the Public Utilities Commission of Nevada; revising provisions concerning the publication of notice of certain filings and proceedings; and providing other matters properly relating thereto.

Section 1. Chapter 703 of NAC is hereby amended by adding thereto a new section to read as follows:

1. A person who wishes to respond to a petition for leave to intervene filed pursuant to NAC 703.578 to 703.600, inclusive, may file with the Commission a response to the petition for leave to intervene.

2. A response to a petition for leave to intervene must:

(a) Be in writing;

(b) Specifically support or oppose the petition for leave to intervene for which the response is filed; and

(c) Be filed with the Commission and served on each party of record and all persons who filed a petition for leave to intervene in the applicable proceeding not later than 5 business days after the deadline for filing a petition for leave to intervene established by the

Commission or the date of the filing of the petition for leave to intervene for which the response is filed, whichever is later.

3. A person who has filed a petition for leave to intervene and who receives a response to the petition for leave to intervene may file a reply to the response. The reply must be:

(a) In writing; and

(b) Filed with the Commission and served on each party of record, the person who filed the response and all persons who filed a petition for leave to intervene in the applicable proceeding not later than 5 business days after the date on which the response was filed.

Sec. 2. NAC 703.160 is hereby amended to read as follows:

703.160 1. The Secretary shall cause public notice of each filing or proceeding described in subsection 10 to be published in the manner prescribed in this section. The publisher of the public notice shall, not later than 5 days after publication of the notice, provide to the Commission proof of the publication of the notice. The proof must include:

(a) The name of the newspaper in which the notice was published;

(b) The name of the county in which the notice was published;

(c) A statement signed by the publisher that the newspaper in which the notice was published is a newspaper of general circulation in the county in which the notice was published; and

(d) The date of the publication of the notice.

2. Except as otherwise provided in this section, if the Secretary determines that the filing or proceeding will have:

(a) A statewide effect, the Secretary shall cause the public notice to be published once in four or more newspapers of general circulation in this State, no two of which are published in the same county.

(b) An effect on a limited number of counties, the Secretary shall cause the public notice to be published once in a newspaper of general circulation in each county affected. If there is no newspaper published in an affected county, the Secretary shall cause the public notice to be published once in a newspaper of general circulation in an adjoining county.

3. The Secretary will ~~[, if practicable,]~~ post each business day on the Internet website of the Commission a current list of all public notices published pursuant to this section.

4. The public notice must be an advertisement which is not less than 1 column inch by 3 inches, with a border on all sides, and must include, as appropriate:

(a) At the beginning of the notice, a title that generally describes the relief requested or the type of proceeding scheduled;

(b) The name of the applicant, complainant or petitioner or the name of the agent for the applicant, complainant or petitioner;

(c) A brief description of the purpose of the filing or proceeding, including, without limitation, a clear and concise introductory statement that summarizes the relief requested or the type of proceeding scheduled and the effect of the relief or proceeding upon consumers;

(d) The location where the filing is on file for the public or the location and time for the proceeding; and

(e) The date by which persons must file comments, notices of intent to participate as a commenter or petitions for leave to intervene with the Commission.

↪ The public notice must be published prominently so that it is reasonably calculated to notify affected persons.

5. If the notice is:

(a) A public notice for a hearing, the Secretary shall cause the notice of hearing to be:

(1) Served on each party and published at least 10 days before the hearing is held; and

(2) Posted at the principal office of the Commission at least 3 days before the hearing is held.

(b) For a filing or a proceeding other than a hearing, the Secretary shall cause the public notice to be published in the appropriate newspapers not less than 3 working days before the proposal in the filing becomes effective or the proceeding is held.

6. The applicant, complainant or petitioner shall *timely* pay the cost of the publication. *If the applicant, complainant or petitioner fails to timely pay the cost of the publication, the Commission may, after notice and an opportunity to be heard and upon due consideration of all relevant circumstances, dismiss the applicable filing without prejudice, seek an administrative fine pursuant to NRS 703.380 or both dismiss the applicable filing without prejudice and seek an administrative fine.*

7. On a weekly basis, the Commission will cause to be published a summary of public notices concerning the filings and proceedings described in subsection 10. The summary of public notices will be published in the Sunday edition of a newspaper of general circulation in Carson City and such other newspapers as determined by the Secretary.

8. If public notice of a filing or proceeding is published by the Secretary pursuant to this section, the Secretary's notice shall be deemed to be legally sufficient public notice of the filing or proceeding, even if public notice in the summary of public notices is deficient or fails to be published pursuant to this section.

9. If public notice of a filing or proceeding is published in the summary of public notices pursuant to this section, the public notice in the summary of public notices shall be deemed to be

legally sufficient public notice of the filing or proceeding, even if the Secretary's public notice is deficient or fails to be published pursuant to this section.

10. Except as otherwise provided pursuant to subsection 12, the provisions of this section apply to the following filings or proceedings:

(a) An application or tariff filing involving any authorization, expansion, reduction or curtailment of services, facilities or authority, any increase in rates, fares or charges, or any change in regulations.

(b) A complaint filed with the Commission pursuant to NAC 703.651.

(c) A petition.

(d) A prehearing conference.

(e) A workshop.

(f) A consumer session.

(g) A hearing.

11. The provisions of this section do not apply to a quarterly rate adjustment made pursuant to subsection 8 or 9 of NRS 704.110.

12. The provisions of this section do not apply to a petition submitted to the Commission pursuant to NAC 703.290.

Sec. 3. NAC 703.578 is hereby amended to read as follows:

703.578 As used in NAC 703.578 to 703.600, inclusive, *and section 1 of this regulation*, unless the context otherwise requires, "association" means an organization, other than a for-profit corporation, partnership or limited-liability company, created to represent the interests of its members.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R068-09**

The Public Utilities Commission of Nevada adopted regulations assigned LCB File No. R068-09 which pertain to chapter 703 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

The following informational statement is submitted for adopted amendments to Nevada Administrative Code Chapter 703.

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.

Copies of the proposed regulations, notice of intent to act upon the regulation and notice of workshop and hearing were sent by U.S. mail and email to persons who were known to have an interest in the subjects of noticing and interventions. These documents were also made available at the website of the Public Utilities Commission of Nevada (“PUCN”), <http://pucweb1.state.nv.us/PUCN/>, mailed to all county libraries in Nevada, published in the following newspapers:

Elko Daily Free Press
Las Vegas Review Journal
Nevada Appeal
Reno Gazette Journal
Tonopah Times-Bonanza,

and posted at the following locations:

Public Utilities Commission
1150 East William Street
Carson City, Nevada 89701

Public Utilities Commission
101 Convention Center Drive, Suite 250
Las Vegas, Nevada 89109

First Judicial District Court
885 East Musser Street
Carson City, Nevada 89701

Second Judicial District Court
75 Court Street
Reno, Nevada 89501

Eighth Judicial District Court
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155

Some participants requested a more definitive description of “timely” payment of publication costs; however, the proposals only complicated the premise as parties sought to define the instances and timing in which the PUCN could take action. (SWG

Comments at 3-4; Verizon Comments at 1; Workshop Tr. at 13:9-20:18; Hearing Tr. at 4:23-16:3). The PUCN believes that it needs the flexibility to address the nonpayment of publication costs through dismissal of a filing and/or assessment of an administrative fine when necessary. Section 2 of the proposed temporary regulations imposes that standard.

Some participants requested additional time to respond to petitions for leave to intervene, consistent with the timeframes for petitions filed pursuant to NAC 703.573. (SWG Comments at 1-3; Verizon Comments at 1; Workshop Tr. at 6:22-7:19). The PUCN believes that responses and replies to petitions for leave to intervene should be filed in the same timeframe as responses and replies to motions (NAC 703.555). Petitions for leave to intervene, in general, do not necessitate the same dedication of resources and research to respond to the merits of the arguments of the filing as those contained in petitions praying for affirmative relief pursuant to NAC 703.540. Section 3 of the proposed temporary regulations provides 5 business days for interested persons to file responses and replies to petitions for leave to intervene.

A copy of the transcript of the proceedings is available for review at the offices of the PUCN, 1150 East William Street, Carson City, Nevada 89701 and 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

2. The number of persons who:

- (a) **Attended each hearing:** September 30, 2008 - 8
- (b) **Testified at each hearing:** September 30, 2008 - 8
- (c) **Submitted to the agency written comments:** 8

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 in the same manner as they were solicited from the public.

The summary may be obtained as instructed in the response to question #1.

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 permanent regulations were adopted on October 28, 2009. There were no substantive changes because they were previously adopted as temporary regulations on November 13, 2008, and no changes were deemed necessary.

5. The estimated economic effect of the adopted regulation on the businesses 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 immediate and long-term effects.**

(a) Both adverse and beneficial effects:

Section 2, which requires a person to timely pay for publication costs, is most likely to affect small businesses that are small regulated utilities. Publication is required by law and that such fees are reasonable and required to further the business interests of the utility. While failure to pay publication costs could result in rejection of a filing important to the utility and/or its customers, the PUCN has the discretion to instead impose an administrative fine.

Section 3 provides a clear process for responding to petitions for leave to intervene, is in the best interest of interested persons, and would assist small businesses interested in responding.

(b) Both immediate and long-term effects:

See Item # 5(a).

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

There is no additional cost to the agency for enforcement of these regulations.

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.

These regulations do not overlap or duplicate any federal, state, or local regulations.

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

N/A

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.

N/A

10. If the proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?

The PUCN has determined that the proposed regulations do not impose a direct and significant economic burden upon a small business or restrict the formation, operation or

expansion of a small business. In making this determination, the PUCN adopted the findings of Staff, which conducted a Delphi Method exercise to determine the impacts. The Delphi Method is a systematic, interactive, forecasting method based on independent inputs of selected experts.