

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

**LCB File No. R036-10**

Effective December 16, 2010

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

AUTHORITY: §§1, 2, 5-7, 12-20 and 31, NRS 703.025 and 704.210; §§3, 4, 8-11, 21-28, 30, 32-34, 37-42, NRS 703.025, 704.095 and 704.210; §§29, 35 and 36, NRS 703.025, 704.095, 704.110 and 704.210.

A REGULATION relating to public utilities; revising certain requirements and procedures for a public utility that furnishes water or services for the disposal of sewage, or both, to file an application for adjustments in rates; authorizing a public utility that furnishes water or services for the disposal of sewage, or both, to make certain requests for surcharges and increases in rates and to use certain methods to calculate certain allowances in an application for adjustments in rates; establishing procedures and requirements for certain water and sewage utilities to file a gross domestic product deflator advice letter; requiring certain water and sewage utilities to file an application for a general rate change with the Public Utilities Commission of Nevada; establishing procedures and requirements for filing an application for a general rate change; providing for the use of a range of reasonable range of returns on equity to be used by public utilities filing an application for an adjustment in rates; adopting certain uniform systems of accounts for water and wastewater utilities; requiring the Regulatory Operations Staff of the Commission to carry out certain duties relating to applications for general rate changes; revising certain standards of service for certain water and sewage utilities; repealing certain provisions relating to applications to change tariffs and for general rate increases; 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, 3 and 4 of this regulation.

**Sec. 2.** *“Regulatory Operations Staff” means the Regulatory Operations Staff of the Commission.*

**Sec. 3. 1.** *Except as otherwise provided in NAC 703.400, a public utility that furnishes water or services for the disposal of sewage, or both, and which intends to file an application*

*for adjustments in rates must meet with the Regulatory Operations Staff before filing a written notice of its intent to file an application for adjustments in rates pursuant to NAC 703.2207.*

*2. At the meeting, the Regulatory Operations Staff shall inform the public utility which of the statements and schedules prescribed under NAC 703.2265 to 703.2452, inclusive, need not accompany the application when it is filed with the Commission.*

**Sec. 4.** *A public utility that furnishes water or services for the disposal of sewage, or both, may:*

*1. Use the 1/8 formula method, as that term is defined in section 30 of this regulation, to calculate an allowance for cash working capital, as that term is defined in that section, in an application for adjustments in rates.*

*2. Use the range of reasonable returns on equity filed by the Regulatory Operations Staff pursuant to subsection 1 of section 27 of this regulation in an application for adjustments in rates.*

*3. Submit an application requesting increases in its scheduled rates to offset increased costs of fuel or power used for pumping in its water or sewer operations, or both, as provided in NAC 704.595.*

*4. Request a rate surcharge to finance large additions or improvements to a plant, as provided in NAC 704.600.*

**Sec. 5.** NAC 703.010 is hereby amended to read as follows:

703.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 703.015 to 703.102, inclusive, *and section 2 of this regulation* have the meanings ascribed to them in those sections.

**Sec. 6.** NAC 703.136 is hereby amended to read as follows:

703.136 1. Except as otherwise provided in subsection 2, in order for the Commission to scan a nonsystem document into the records management system, the document must:

(a) Be typewritten in black ink or be prepared by another duplication process that will produce clear and permanent copies equally legible to printing;

(b) Be unbound;

(c) Not have external tabs or dividers; and

(d) Be printed on one side of 18 to 24 pound white paper that is 8 1/2 by 11 inches in size.

2. The requirements of subsection 1 do not apply if:

(a) The document is submitted pursuant to NAC 703.5274, in which case the requirements of NAC 703.5274 must be followed; or

(b) A person wishes to use an alternative format for the document, the person requests the use of the alternative format for the document before submitting it and the Commission agrees to the alternative format, in which case hard copies that are clearly legible must be provided in the alternative format to the Commission, the Regulatory Operations Staff ~~[of the Commission]~~ and any party of record to the proceeding.

**Sec. 7.** NAC 703.163 is hereby amended to read as follows:

703.163 Not later than 14 days before a utility files:

1. An application for an adjustment to a general rate pursuant to NAC 703.2201 to 703.2481, inclusive, or 703.251 to 703.2711, inclusive;

2. An application for a deferred energy accounting adjustment pursuant to NAC 704.116; or

3. A rate adjustment application for customers of natural gas service pursuant to NAC 704.6679,

↪ the applicant, the ~~[Commission's staff assigned to regulatory operations]~~ *Regulatory Operations Staff* and the Bureau of Consumer Protection in the Office of the Attorney General shall hold an informal discovery meeting.

**Sec. 8.** NAC 703.2205 is hereby amended to read as follows:

703.2205 The provisions of NAC 703.2201 to 703.2481, inclusive, *and sections 3 and 4 of this regulation* apply to all ~~[ ]~~ *public utilities:*

1. ~~[Public utilities which]~~ *Which* produce, deliver or furnish electricity or gas; *and*
2. ~~[Telegraph and community antenna television companies; and~~
- ~~—3. Public utilities which]~~ *Which* furnish water or ~~[sewer service,]~~ *services for the disposal of sewage,* or both, and are not subject to the provisions of NAC 704.570 to 704.628, inclusive, *and sections 22 to 30, inclusive, of this regulation* under the jurisdiction of the Commission.

**Sec. 9.** NAC 703.2207 is hereby amended to read as follows:

703.2207 1. A public utility that furnishes electricity, gas , or water ~~[which has an annual gross revenue of more than \$500,000 from intrastate operations in this State]~~ *or services for the disposal of sewage, or both,* must provide written notice of its intent to file an application for adjustments in rates to:

- (a) The *Assistant* Secretary of the Commission;
- (b) The ~~[staff of the Commission assigned to regulatory operations;]~~ *Regulatory Operations Staff;* and

(c) The Consumer's Advocate.

2. The written notice must be filed at least 60 days before the anticipated date for filing the application for adjustments in rates. If the public utility files the written notice, it is not required to file the application for adjustments in rates on the anticipated filing date or any time thereafter.

3. The written notice must contain a list of the components on which the public utility expects to base its application for adjustments in rates, including:

- (a) Cost of capital;
- (b) Depreciation;
- (c) Cost of service, including any study of the cost of service;
- (d) Design of the proposed rates; and
- (e) Any other material issues known at the time the notice is filed.

**Sec. 10.** NAC 703.2208 is hereby amended to read as follows:

703.2208 1. A public utility that furnishes electricity, gas , or water ~~[which has an annual gross revenue of more than \$1,000,000 from intrastate operations in this State and]~~ *or services for the disposal of sewage, or both*, which files an application for adjustments in rates must submit a master document for the request of data, together with answers to the questions contained in the document, to:

- (a) The Consumer's Advocate; and
- (b) The ~~[staff of the Commission assigned to regulatory operations.]~~ *Regulatory Operations Staff.*

2. The public utility shall:

(a) Submit the master document for the request of data, together with the answers, on the same date as it files the application for adjustments in rates.

(b) Complete as much of the answers to the questions in the master document as possible given the available applicable data and any agreements for the confidentiality of information which have been executed.

3. Except as otherwise provided in this subsection, the master document for the request of data must be submitted in the illustrative format required by the Commission. The illustrative format for a particular master document for the request of data may be changed if the Consumer's Advocate, the ~~staff of the Commission~~ *Regulatory Operations Staff* and the public utility agree to the change. The illustrative format for the master document for the request of data may be obtained at the offices of the Commission.

4. The following entities may request the Commission to change the illustrative format for the master document for the request of data:

- (a) The Consumer's Advocate;
- (b) The ~~staff of the Commission;~~ *Regulatory Operations Staff*; or
- (c) The public utility.

5. Any changes which the Commission makes to the illustrative format for the master document for the request of data do not apply to a master document for the request of data submitted by a public utility within 90 days after the Commission approves the changes.

**Sec. 11.** NAC 703.2209 is hereby amended to read as follows:

703.2209 1. A public utility that furnishes electricity, gas , or water ~~which has an annual gross revenue of more than \$1,000,000 from intrastate operations in this State and~~ *or services for the disposal of sewage, or both*, which intends to file an application for adjustments in rates must meet with the Consumer's Advocate and the ~~staff of the Commission assigned to regulatory operations~~ *Regulatory Operations Staff* at least 20 days before the anticipated date for filing the application for adjustments in rates.

2. At the meeting, the public utility shall provide updated information regarding the application for adjustments in rates, including:

- (a) Cost of capital;
- (b) Depreciation;
- (c) Cost of service, including any study of the cost of service;
- (d) Design of the proposed rate; and
- (e) Any other material issues known at the time of the meeting.

3. At the meeting, those persons in attendance shall:

(a) Develop guidelines for a preliminary plan for conducting audits. The guidelines must address all matters relating to the audit, including:

(1) The timing of the audits and any necessary meetings to coordinate audits conducted at the site, whether within or outside the State, by *the Regulatory Operations Staff and* specialized personnel from the public utility and ~~auditors from~~ the Bureau of Consumer Protection . ~~and the staff of the Commission.~~

(2) The number of persons representing each interest who will participate in the audits.

(3) The facilities and the supplies that the auditors will need at the locations of the audits.

(b) Discuss a plan and schedule for discovery, and methods of minimizing the duplication of discovery requests.

(c) Discuss the use of agreements for the confidentiality of information.

(d) Discuss the review of computer models for data contained in the filing.

(e) Determine which items on the master document for the request of data must be provided on a computer disc or other computer media, and which items must be provided on paper.

(f) Discuss the need for and timing of future meetings, including:

(1) A conference between the public utility, the ~~staff of the Commission~~ *Regulatory Operations Staff* and a representative of the Bureau of Consumer Protection to discuss the results of the audits.

(2) A mandatory settlement conference between all interests to the proceeding. The ~~staff of the Commission~~ *Regulatory Operations Staff* shall convene the settlement conference at least 14 calendar days before the scheduled first day of the hearing on the application for adjustments in rates in accordance with a procedural schedule approved by the Commission.

**Sec. 12.** NAC 703.2215 is hereby amended to read as follows:

703.2215 ~~The~~ *Except as otherwise provided pursuant to a meeting held pursuant to section 3 of this regulation, the* applicable statements and schedules prescribed under NAC 703.2265 to ~~703.2455,~~ *703.2452*, inclusive, and an index of these statements and schedules must accompany the application when it is filed with the Commission. The index must indicate which statements and schedules are supported by workpapers prepared by the applicant.

**Sec. 13.** NAC 703.2221 is hereby amended to read as follows:

703.2221 The list contained in NAC 703.2265 to ~~703.2455,~~ *703.2452*, inclusive, is not exclusive. Any additional information necessary to determine the fairness and reasonableness of the proposed change must be supplied upon request of the Commission in a particular case.

**Sec. 14.** NAC 703.2265 is hereby amended to read as follows:

703.2265 ~~In~~ *Except as otherwise provided in section 3 of this regulation, in* filing its application, an applicant whose annual operating revenues are \$250,000 or more must include statements A to E, inclusive, F and G with their respective schedules, H to J, inclusive, K, L and M with their respective schedules and N to P, inclusive, as these statements and schedules are described in NAC ~~703.2251~~ *703.2271* to 703.2451, inclusive.



**Sec. 15.** NAC 703.2507 is hereby amended to read as follows:

703.2507 1. If a public utility that provides telecommunication services proposes to increase its annual gross revenue by at least 10 percent or by more than \$50,000, it must provide written notice of its intent to file an application for adjustments in rates to:

(a) The Secretary of the Commission;

(b) The ~~[staff of the Commission assigned to regulatory operations;]~~ *Regulatory Operations Staff*; and

(c) The Consumer's Advocate.

2. The written notice must be filed at least 60 days before the anticipated date for filing the application for adjustments in rates. If the public utility files the written notice, it is not required to file the application for adjustments in rates on the anticipated filing date or any time thereafter.

3. The written notice must contain a list of the components on which the public utility expects to base its application for adjustments in rates, including:

(a) Cost of capital;

(b) Depreciation;

(c) Cost of service, including any study of the cost of service;

(d) Design of the proposed rates; and

(e) Any other material issues known at the time the notice is filed.

**Sec. 16.** NAC 703.2508 is hereby amended to read as follows:

703.2508 1. Except as otherwise provided in subsection 6, if a public utility that provides telecommunication services proposes to increase its annual gross revenue by at least 10 percent or by more than \$50,000, it must submit a master document for the request of data, together with answers to the questions contained in the document, to:

(a) The Consumer's Advocate; and

(b) The ~~[staff of the Commission assigned to regulatory operations.]~~ *Regulatory Operations Staff*.

2. The public utility must:

(a) Submit the master document for the request of data, together with the answers, on the same date as it files the application for adjustments in rates.

(b) Complete as much of the answers to the questions in the master document as possible given the available data and any agreements for the confidentiality of information which have been executed.

3. Except as otherwise provided in this subsection, the master document for the request of data must be submitted in the illustrative format required by the Commission. The illustrative format for a particular master document for the request of data may be changed if the Consumer's Advocate, the ~~[staff of the Commission]~~ *Regulatory Operations Staff* and the public utility agree to the change. The illustrative format for the master document for the request of data may be obtained at the offices of the Commission.

4. The following entities may request the Commission to change the illustrative format for the master document for the request of data:

(a) The Consumer's Advocate;

(b) The ~~[staff of the Commission;]~~ *Regulatory Operations Staff*; or

(c) The public utility which proposes to increase its annual gross revenue by at least 10 percent or by more than \$50,000.

5. Any changes which the Commission makes to the illustrative format for the master document for the request of data do not apply to a master document for the request of data

submitted by a public utility that provides telecommunication services within 90 days after the Commission approves the changes.

6. A small-scale provider of last resort which submits an application for a change of rate in accordance with NAC 703.27116 to 703.27146, inclusive, does not have to submit a master document as required by this section.

**Sec. 17.** NAC 703.2509 is hereby amended to read as follows:

703.2509 1. If a public utility that provides telecommunication services proposes to increase its annual gross revenue by at least 10 percent or by more than \$50,000, it must meet with the Consumer's Advocate and the ~~staff of the Commission assigned to regulatory operations~~ *Regulatory Operations Staff* at least 20 days before the anticipated date for filing the application for adjustments in rates.

2. At the meeting, the public utility shall provide updated information regarding the application for adjustments in rates, including:

- (a) Cost of capital;
- (b) Depreciation;
- (c) Cost of service, including any study of the cost of service;
- (d) Design of the proposed rates; and
- (e) Any other material issues known at the time of the meeting.

3. At the meeting, those persons in attendance shall:

(a) Develop guidelines for a preliminary plan for conducting audits. The guidelines must address all matters relating to the audits, including:

(1) The timing of the audits and any necessary meetings to coordinate audits conducted at the site, whether within or outside the State, by *the Regulatory Operations Staff and* specialized

personnel from the public utility and ~~[auditors from]~~ the Bureau of Consumer Protection . ~~[and the staff of the Commission.]~~

- (2) The number of persons representing each interest who will participate in the audit.
  - (3) The facilities and the supplies that the auditors will need at the locations of the audits.
- (b) Discuss a plan and schedule for discovery, and methods of minimizing the duplication of discovery requests.
- (c) Discuss the use of agreements for the confidentiality of information.
- (d) Discuss the review of computer models for data contained in the application.
- (e) Determine which items on the master document for the request of data must be provided on a computer disc or other computer media, and which items must be provided on paper.
- (f) Discuss the need for and timing of future meetings, including:
- (1) A conference between the public utility, the ~~[staff of the Commission]~~ *Regulatory Operations Staff* and a representative of the Bureau of Consumer Protection to discuss the results of the audits.
  - (2) A mandatory settlement conference between all interests to the proceeding. The ~~[staff of the Commission]~~ *Regulatory Operations Staff* shall convene the settlement conference at least 14 calendar days before the scheduled first day of the hearing on the application for adjustments in rates in accordance with a procedural schedule approved by the Commission.

**Sec. 18.** NAC 703.400 is hereby amended to read as follows:

703.400 1. A tariff sheet covering a service or commodity not previously furnished, a tariff sheet modifying an existing service and a tariff sheet that does not alter any rate or charge may be filed by a letter of advice as described in NAC 703.390.

2. An application to increase rates must be made in accordance with the provisions established for pleadings and motions and the requirements for public utilities requesting rate adjustments unless the rate increases generate annual gross revenues, as certified by the applicant, of \$2,500 or less.

3. If the proposed increases involve \$2,500 or less, the Commission may accept the filing of a letter of advice, if justification is fully set forth in that letter, without an application made pursuant to NAC 703.2201 to 703.2481, inclusive ~~§~~, *and sections 3 and 4 of this regulation.*

4. A change to a tariff that is filed by letter of advice does not become effective until approved by the Commission.

5. A copy of the utility's tariff sheet approved by the Commission will be returned to the utility with a designation of the effective date and constitutes the utility's official copy of the approved tariff sheet on file with the Commission.

**Sec. 19.** NAC 703.510 is hereby amended to read as follows:

703.510 1. Subject to the specific provisions of this section, in any proceeding before the Commission, a person may represent himself or may be represented by an attorney or any other person who satisfies the Commission or the presiding officer that the person possesses the expertise and is otherwise competent to advise and assist in the presentation of matters before the Commission. The Commission may, for good cause shown, exclude any representative or impose conditions upon the participation of any representative appearing before the Commission pursuant to the provisions of this section.

2. The provisions of this section rather than the provisions of Nevada Supreme Court Rule 42 govern appearances before the Commission by attorneys who are not admitted and entitled to practice before the Supreme Court of Nevada.

3. An attorney appearing in any proceeding before the Commission must be duly admitted to practice and in good standing before the highest court of any state or the District of Columbia.

4. In a contested case:

(a) An attorney who is not admitted and entitled to practice before the Supreme Court of Nevada must associate with an attorney so admitted and entitled to practice and shall file a notice of association with the Commission if:

(1) The attorney who is not admitted and entitled to practice before the Supreme Court of Nevada has not appeared before the Commission in the 3 years immediately preceding the date on which the case is filed; or

(2) The Commission, for good cause shown, requires the attorney who is not admitted and entitled to practice before the Supreme Court of Nevada to associate with an attorney so admitted and entitled to practice.

(b) The notice of association required pursuant to paragraph (a) must:

(1) Identify each jurisdiction in which the attorney who is required to file the notice is duly admitted and in good standing;

(2) Identify by name and State Bar of Nevada identification number the attorney with whom the attorney who is required to file the notice is associating;

(3) Describe the qualifications of the attorney who is required to file the notice to advise and assist in the presentation of the contested case before the Commission; and

(4) Be signed by the attorney who is required to file the notice and by the attorney with whom the attorney who is required to file the notice is associating.

(c) The Commission or presiding officer may require the attorney who is admitted and entitled to practice before the Supreme Court of Nevada and who is identified pursuant to

subparagraph (2) of paragraph (b) to sign any pleadings and be present at any proceeding on the record.

5. An attorney who resides in Nevada and who is not admitted and entitled to practice before the Supreme Court of Nevada may not appear in any proceeding before the Commission unless the attorney:

(a) Is qualified or has an application for qualification pending for the limited practice of law pursuant to Nevada Supreme Court Rule 49.10; and

(b) Associates with an attorney who is admitted and entitled to practice before the Supreme Court of Nevada in accordance with the provisions of subsection 4.

6. An attorney from the Regulatory Operations Staff ~~[of the Commission]~~ shall represent the ~~[Commission's staff]~~ *Regulatory Operations Staff* in all proceedings before the Commission.

7. As used in this section, the term “contested case” has the meaning ascribed to it in NRS 233B.032.

**Sec. 20.** NAC 703.680 is hereby amended to read as follows:

703.680 1. In addition to the provisions of NRS 703.195 and NAC 703.2208 and 703.2508, the parties to any matter that has been assigned a docket number may conduct discovery with regard to any information that is not privileged through written data requests and oral depositions that are reasonably calculated to obtain information that is relevant to the matter.

2. Upon motion and opportunity for response, the presiding officer may, for good cause shown, prohibit discovery or restrict or modify the scope of discovery. A motion to limit the number of data requests must be filed with the Commission and served upon all parties of record not later than 45 days after the opening of the docket.

3. Except as otherwise provided in subsection 4, a data request, a notice of deposition, and an objection or response to a discovery request must be served upon the appropriate party at the address, telephone number or electronic mail address designated in the application, petition or petition for leave to intervene and may be sent by United States mail, overnight delivery service, facsimile or electronic mail. All data requests must also be served upon the ~~[Commission's staff assigned to regulatory operations]~~ *Regulatory Operations Staff* and the Bureau of Consumer Protection in the Office of the Attorney General.

4. In lieu of service pursuant to subsection 3, a responding party in a case with a significant volume of discovery responses may deposit those responses in a password-protected website.

5. A notice of deposition must state the date, time and location of the deposition and be served at least 10 business days before the date of the deposition. The deposing party may enumerate in the notice any specific documents the deponent must bring to the deposition.

6. A party may object in whole or in part to a discovery request within 5 business days after receiving the request. An objection to a discovery request must be in writing and state the specific grounds for the objection.

7. Unless otherwise ordered by the presiding officer or agreed to by the parties, or unless a timely objection has been made, a response to a data request must be served on or otherwise made available to the requesting party not later than 10 business days after receipt of the request by the responding party, except that the responding party will be allowed an additional 5 business days within which to respond if the responding party timely notifies the requesting party of the need for the additional response time because the responding party is experiencing technical or practical difficulties in providing a thorough response within the 10-day period.



8. Except as otherwise provided in subsection 9, a response to a data request must be submitted in the following quantities to the following persons:

(a) Two copies must be submitted to the ~~[staff of the Commission assigned to regulatory operations,]~~ *attorney of record of the Regulatory Operations Staff* unless directed otherwise by the ~~[staff]~~ *Regulatory Operations Staff* in the data request;

(b) Two copies must be submitted to the attorney of record of the Bureau of Consumer Protection in the Office of the Attorney General; and

(c) One copy must be submitted to the requesting party.

9. If a response to a data request is transmitted by electronic mail or deposited in a password-protected website, the responding party shall provide one hard copy of the response to the ~~[staff of the Commission assigned to regulatory operations]~~ *attorney of record of the Regulatory Operations Staff* and one hard copy of the response to the attorney of record of the Bureau of Consumer Protection in the Office of the Attorney General within 2 business days after the due date for the response. The parties may agree to, or the presiding officer may order, an on-site inspection of the response to a data request if the response involves confidential or voluminous material. If an on-site inspection is agreed to by the parties or ordered by the presiding officer, the responding party shall make reasonable efforts to facilitate the inspection.

10. If a dispute arises concerning discovery, the involved parties shall confer in good faith to attempt to resolve the dispute before seeking resolution by the presiding officer. The presiding officer shall rule on all motions related to discovery.

11. The following standards apply to discovery responses to the extent available in the format requested:

- (a) Computer files must be executable in the file format specified by the ~~[staff of the Commission assigned to regulatory operations.]~~ *Regulatory Operations Staff*.
- (b) Image files must not be used.
- (c) Nominally numeric fields, such as account numbers or negative values, must contain numeric data and not literal data.
- (d) Spreadsheet computer files that perform calculations must operate so that a change in input causes a change in output.

12. If a party that is responding to a data request believes that the response contains information which is commercially sensitive or which constitutes a trade secret, the party may, before providing the response, request that a confidentiality agreement be signed by specifying the grounds for the claim of confidential treatment of the information. If a confidentiality agreement is signed, the recipient of the information shall not publicly disclose the information except:

- (a) With the approval of the party that requested the confidentiality agreement; or
- (b) Pursuant to an order of a court of competent jurisdiction or the Commission.

13. The parties may agree in writing to alternative discovery procedures and time frames. A party may pursue any other form of discovery provided for in the Nevada Rules of Civil Procedure upon agreement with the party to whom the discovery request is directed or with permission from the presiding officer upon good cause being shown.

14. If a responding party fails to respond adequately after an order from the presiding officer or the Commission concerning discovery, the Commission may, upon the motion of any party of record, enter such order as the Commission deems just, including, without limitation, the

dismissal of the application or petition, the imposition of civil penalties pursuant to NRS 703.380, if applicable, or the revocation of intervener status against the nonresponsive party.

15. A response to a motion for discovery must be filed with the Commission and served upon all parties of record within 5 business days after the motion for discovery is filed with the Commission. A reply to the response, if any, must be filed with the Commission within 5 business days after the response is filed with the Commission.

16. Discovery must be completed at least 15 days before the date set for the hearing unless otherwise ordered by the presiding officer. Any party of record seeking to have this time shortened or lengthened must do so by a motion to the presiding officer. The presiding officer shall grant the motion for good cause shown.

17. As used in this section, “data request” means a comprehensive vehicle for obtaining discovery and includes, without limitation, interrogatories, requests for admission, and requests for production of documents or inspection of property.

**Sec. 21.** Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 22 to 31, inclusive, of this regulation.

**Sec. 22.** *“Affiliate” means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with a utility subject to the provisions of NAC 704.570 to 704.628, inclusive, and sections 22 to 30, inclusive, of this regulation.*

**Sec. 23.** *“General rate change” means an increase or decrease in rates which is designed to produce gross annual operating revenue to cover a public utility’s cost to provide service to the public, exclusive of costs that are otherwise specifically identified to be recoverable from special rate and accounting mechanisms.*

**Sec. 24.** *“Gross domestic product deflator” means an economic metric that accounts for the effects of inflation or deflation in the gross domestic product for the current year by converting the value of that gross domestic product to a value relative to the gross domestic product of a designated year. For the purposes of NAC 704.570 to 704.628, inclusive, and sections 22 to 30, inclusive, of this regulation, the gross domestic product deflator is published by the Bureau of Economic Analysis of the United States Department of Commerce and is calculated by the following formula:*

$$\text{Gross domestic product deflator} = \frac{\text{Nominal gross domestic product X 100}}{\text{Real gross domestic product}}$$

**Sec. 25.** *“Gross domestic product deflator advice letter” means a letter that a utility files with the Commission to request an increase or decrease, consistent with the percentage change in the gross domestic product deflator, in the fee for basic service or the charges for a commodity provided by the utility.*

**Sec. 26.** *On or before February 1 of each year, the Regulatory Operations Staff shall notify all public utilities to which the provisions of NAC 704.570 to 704.628, inclusive, and sections 22 to 30, inclusive, of this regulation apply pursuant to NAC 704.575 of the most recent gross domestic product deflator.*

**Sec. 27.** *1. On or before February 15 of each year, the Regulatory Operations Staff shall file with the Commission and serve upon the Consumer’s Advocate and all public utilities that furnish water or services for the disposal of sewage, or both, a range of*

*reasonable returns on equity that may be used by those public utilities when filing an application for adjustments in rates.*

*2. In a range of reasonable returns on equity filed pursuant to subsection 1, the Regulatory Operations Staff shall specify the appropriate return on equity applicable to a public utility that furnishes water or services for the disposal of sewage, or both, based upon:*

- (a) The size of the public utility; and*
- (b) Whether the public utility is a subsidiary of a holding company.*

*3. A range of reasonable returns on equity filed pursuant to subsection 1 shall be accompanied by all work papers used to establish the range of returns on equity.*

*4. The use in an application for adjustments in rates by a public utility that furnishes water or services for the disposal of sewage, or both, of the most recent applicable range of reasonable returns on equity filed by the Regulatory Operations Staff creates a rebuttable presumption that the return on equity requested by the public utility is just and reasonable.*

**Sec. 28.** *1. Except as otherwise provided in this subsection, on or before April 1 of each year, a utility may file a gross domestic product deflator advice letter. A utility may not file a gross domestic product deflator advice letter pursuant to this subsection if, within the preceding calendar year, the utility filed:*

- (a) An application for a general rate change pursuant to section 29 of this regulation; or*
- (b) An application to recover increased costs of fuel or power pursuant to NAC 704.595.*

*2. A gross domestic product deflator advice letter must include:*

- (a) A schedule of the proposed fee for basic service and charges for a commodity;*
- (b) A comparison of the existing fee for service and charges for a commodity and the proposed fee for service and charges for a commodity;*

*(c) The dollar amount of the total increase or decrease in annual gross revenues expected to result from the proposed changes;*

*(d) The percentage amount of the total increase or decrease in annual gross revenues expected to result from the proposed changes;*

*(e) The dollar amount of the total increase or decrease in annual gross revenues expected to result from the proposed changes for each class or category of service or commodity;*

*(f) The percentage amount of the total increase or decrease in annual gross revenues expected to result from the proposed changes for each class or category of service or commodity;*

*(g) The number of customers at the time the gross domestic product deflator advice letter is filed to whom the proposed changes are expected to apply; and*

*(h) A copy of the workpapers that reflect the calculation of the proposed changes.*

*3. The utility must file copies of the gross domestic product deflator advice letter with the Regulatory Operations Staff and the Consumer's Advocate. The gross domestic product deflator advice letter filed with the Commission must be accompanied by proofs of service that copies of the gross domestic product deflator advice letter were filed pursuant to this subsection.*

*4. The Regulatory Operations Staff shall file with the Commission and serve on the parties a memorandum setting forth the recommendations of the Regulatory Operations Staff with respect to approval by the Commission of the proposed changes in the fee for service and charges for a commodity and such other action by the Commission as the Regulatory Operations Staff deems reasonable under the circumstances. The Regulatory Operations Staff shall file the memorandum required pursuant to this subsection within the later of:*

*(a) Thirty days after the utility filed the gross domestic product deflator advice letter with the Commission; or*

*(b) If the Commission has conducted a consumer session pursuant to NRS 704.069 relating to the proposed changes, 5 business days after the consumer session.*

*5. Not later than 10 business days after receipt of service of a memorandum served by the Regulatory Operations Staff pursuant to subsection 4, any party may file a response to the memorandum.*

**Sec. 29. 1.** *To request a general rate change, a utility must file an application with the Commission.*

*2. An application for a general rate change must include:*

*(a) The following forms, which are available from the Regulatory Operations Staff upon request:*

*(1) Form A, Company Information (pages 1-2);*

*(2) Form B, Tariff Rate Schedule;*

*(3) Form C, Income Statement;*

*(4) Form D, Rate Base;*

*(5) Form E, Cost of Capital; and*

*(6) Form F, Statement of Services;*

*(b) A complete and accurate explanation of the circumstances and conditions upon which the utility relied as justification for the application;*

*(c) The certification required pursuant to subsection 3 of NRS 704.110 or an explanation of the adjustments to recorded data which show the effects, on an annualized basis, of known and expected changes in circumstances;*

*(d) A comparison of the existing fee for service and charges for a commodity and the proposed fee for service and charges for a commodity;*

*(e) The dollar amount of the total increase or decrease in annual gross revenues expected to result from the proposed changes;*

*(f) The percentage amount of the total increase or decrease in annual gross revenues expected to result from the proposed changes;*

*(g) The dollar amount of the total increase or decrease in annual gross revenues expected to result from the proposed changes for each class or category of service or commodity;*

*(h) The percentage amount of the total increase or decrease in annual gross revenues expected to result from the proposed changes for each class or category of service or commodity; and*

*(i) The number of customers at the time the application is filed to whom the proposed changes are expected to apply.*

*3. The utility must serve copies of the application for a general rate change upon the Regulatory Operations Staff and the Consumer's Advocate. The application for a general rate change filed with the Commission must be accompanied by proofs of service that copies of the application for a general rate change were served pursuant to this subsection.*

**Sec. 30. 1.** *To calculate the amount of an allowance for cash working capital, a public utility that furnishes water or services for the disposal of sewage, or both, may:*

*(a) Conduct a lead-lag study; or*

*(b) Use the 1/8 formula method.*

*2. If a public utility that furnishes water elects to use the 1/8 formula method to calculate the amount of an allowance for cash working capital, the utility must use in that calculation*



*exclusively the following accounts of the Uniform System of Accounts of the National Association of Regulatory Utility Commissioners:*

*(a) Account 408, Taxes Other Than Income; and*

*(b) Accounts 601 through 675, inclusive, Operations and Maintenance, exclusive of:*

*(1) Account 670, Bad Debt Expense; and*

*(2) Amortization of expenses of a rate case that have been deferred, otherwise included*

*in:*

*(I) Account 666, Regulatory Commission Expenses - Amortization of Rate Case Expense (Class A and B Utilities); and*

*(II) Account 665, Regulatory Commission Expenses - Amortization of Rate Case Expense (Class C Utilities).*

*3. If a public utility that furnishes services for the disposal of sewage elects to use the 1/8 formula method to calculate the amount of an allowance for cash working capital, the utility must use in that calculation exclusively the following accounts of the Uniform System of Accounts of the National Association of Regulatory Utility Commissioners:*

*(a) Account 408, Taxes Other Than Income; and*

*(b) Accounts 701 through 775, inclusive, Operations and Maintenance, exclusive of:*

*(1) Account 770, Bad Debt Expense; and*

*(2) Amortization of expenses of a rate case that have been deferred, otherwise included*

*in:*

*(I) Account 766, Regulatory Commission Expenses - Amortization of Rate Case Expense (Class A and B Utilities); and*

*(II) Account 765, Regulatory Commission Expenses - Amortization of Rate Case Expense (Class C Utilities).*

*4. For the purposes of this section:*

*(a) "1/8 formula method" means the computation of the amount of cash working capital which equals the sum of the total annual operating expenses and total annual maintenance expenses of a utility divided by 8.*

*(b) "Cash working capital" means the amount of money that the shareholders or investors of the utility have provided to enable the utility to pay current operating expenses of the utility between the time when the expenses of rendering utility service are paid and the time when revenues for that service are collected from the customers of the utility.*

**Sec. 31. 1.** *The Commission hereby adopts by reference the Uniform Systems of Accounts for:*

*(a) Class A Water Utilities, 1996 edition, which is available for the price of \$30.00.*

*(b) Class B Water Utilities, 1996 edition, which is available for the price of \$24.00.*

*(c) Class C Water Utilities, 1996 edition, which is available for the price of \$18.00.*

*(d) Class A Wastewater Utilities, 1996 edition, which is available for the price of \$31.20.*

*(e) Class B Wastewater Utilities, 1996 edition, which is available for the price of \$25.20.*

*(f) Class C Wastewater Utilities, 1996 edition, which is available for the price of \$19.20.*

*↪ A copy of the publications may be obtained from the National Association of Regulatory Utility Commissioners, 1101 Vermont Avenue N.W., Suite 200, Washington, D.C. 20005, or at the Internet address <http://naruc.org/Store>.*

*2. The Commission will review each revision of the publications adopted by reference pursuant to this section to ensure its suitability for the State. If the Commission determines*

*that the revision is not suitable for this State, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Commission does not revise its determination, the Commission will give notice that the revision is not suitable for this State within 30 days after the hearing. If the Commission does not give such notice, the revision becomes part of the publication adopted by reference pursuant to this section.*

**Sec. 32.** NAC 704.570 is hereby amended to read as follows:

704.570 As used in NAC 704.570 to 704.628, inclusive, *and sections 22 to 30, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC ~~[704.571 to 704.574, inclusive,]~~ *704.5725 and sections 22 to 25, inclusive, of this regulation* have the meanings ascribed to them in those sections.

**Sec. 33.** NAC 704.5725 is hereby amended to read as follows:

704.5725 “Staff” means the ~~[staff]~~ *Regulatory Operations Staff* of the Commission.

**Sec. 34.** NAC 704.575 is hereby amended to read as follows:

704.575 ~~[The]~~ *Except as otherwise provided in section 4 of this regulation, the* provisions of NAC 704.570 to 704.628, inclusive, *and sections 22 to 30, inclusive, of this regulation* apply to public utilities whose rates are subject to the jurisdiction of the Commission as set forth in NRS 704.095. ~~[To determine whether a public utility is subject to the provisions of NRS 704.095, a public utility that serves 3,000 or fewer persons shall be deemed to include a public utility that serves 3,000 or fewer service connections.]~~

**Sec. 35.** NAC 704.587 is hereby amended to read as follows:

704.587 If a utility files *a gross domestic product deflator advice letter pursuant to section 28 of this regulation* or an application pursuant to ~~[NAC 704.580:]~~ *section 29 of this regulation:*

1. The utility shall make available at its place of business a complete copy of the *gross domestic product deflator advice letter or* application that is readily accessible and can be conveniently inspected by its customers.

2. The utility shall, within 10 days after the date on which the *gross domestic product deflator advice letter or* application is filed, post a notice at its place of business which states that the *gross domestic product deflator advice letter or* application, *as applicable*, has been filed with the Commission and that a copy of the *gross domestic product deflator advice letter or* application, *as applicable*, is available for inspection by customers on the premises of the utility.

3. The utility shall, within 30 days after the date on which the *gross domestic product deflator advice letter or* application is filed, notify its customers of its intention to seek a change in its rates.

4. The utility shall, within 45 days after the date on which the *gross domestic product deflator advice letter or* application is filed, submit an affidavit to the Commission which demonstrates that the utility has complied with the requirements set forth in subsections 1, 2 and 3.

5. The utility shall, either by inclusion in the regular bill of charges or in a separate mailing, notify its customers of the hearing to be held to receive comments from customers and of any evidentiary hearing to be held. The utility shall provide the notice of the hearing in such a manner as to ensure that the customers are notified of the hearing not less than 10 days before the date of the hearing. The notice must specify:

- (a) The date, time and location of the consumer hearing and evidentiary hearing, if any;
- (b) The percentage of change in revenues requested in the *gross domestic product deflator advice letter or* application; and

(c) The current and proposed rates.

**Sec. 36.** NAC 704.615 is hereby amended to read as follows:

704.615 1. ~~Upon receipt of~~ *Not later than 30 days after a utility files with the Commission an application for a general rate ~~changes filed~~ change pursuant to ~~NAC 704.580,~~ section 29 of this regulation,* the Commission's Division of Consumer Complaint Resolution will prepare *and file with the Commission* a report on all service complaints received by the Division subsequent to the utility's last request for a *general rate ~~increase,~~ change.*

2. ~~The staff will review the application to determine whether the requested rate changes are reasonable. The staff may make field investigations in conducting its review. If the staff determines that the utility's capital structure, expenses or rate base do not appear reasonable, the staff may prepare a revised summary of earnings based upon its finding of an appropriate capital structure, reasonable expenses, revenues and rate base.~~

~~3.]~~ *Upon receipt of an application filed pursuant to section 29 of this regulation, the Regulatory Operations Staff shall conduct an examination of the books and records of the utility and a field inspection of the facilities of the utility. The Regulatory Operations Staff may request a utility to submit information in addition to that specifically required by section 29 of this regulation. Not later than 90 days after the Regulatory Operations Staff receives the application and based upon the examination and inspection conducted pursuant to this subsection, the Regulatory Operations Staff shall prepare and serve upon the utility and the interveners, if any:*

*(a) A summary of the results of operations as submitted to the Commission, revised based on the Regulatory Operations Staff's findings relating to the appropriate capital structure, reasonable expenses, rate base and revenues; and*

(b) *A recommended schedule of a fee for service and charges for a commodity.*

3. *The utility and the interveners, if any, may file with the Commission a response to the Regulatory Operations Staff's summary and recommended schedule not later than 10 business days after receiving the summary and recommended schedule.*

4. After the ~~[staff]~~ *Regulatory Operations Staff* completes its ~~[investigation,]~~ *examination and inspection*, the ~~[staff]~~ *Regulatory Operations Staff* will schedule an informal *settlement* conference ~~[in the Commission's offices]~~ with the utility ~~[, the Consumer's Advocate]~~ and the ~~[staff]~~ *intervenors, if any*, to review the results of the ~~[staff's investigation]~~ *examination and investigation by the Regulatory Operations Staff* and the report from the Division of Consumer Complaint Resolution, and to attempt to resolve any differences among the parties.

~~[4.— Following the informal conference, the staff will:~~

~~—(a) Request that an evidentiary hearing be scheduled; or~~

~~—(b) Present a stipulation for the consideration of the Commission. Before it will consider the~~

~~stipulation, the Commission will determine if it is necessary to hold a hearing to receive~~

~~comments from customers of the utility with respect to the quality of service and other matters of~~

~~interest to customers.]~~

**Sec. 37.** NAC 704.622 is hereby amended to read as follows:

704.622 1. ~~[A utility whose rates are subject to the jurisdiction of the Commission as set forth in NRS 704.095, and whose gross annual revenues for the past 12 months did not exceed \$100,000, may elect to change its rates and charges pursuant to this section or NAC 704.580.~~

~~—2.— The]~~ *Except as otherwise provided in subsection 7, a* utility may request the assistance of the ~~[staff]~~ *Regulatory Operations Staff* in ~~[changing the rates and charges of the utility by mailing a letter to the staff requesting that the staff conduct an audit of the books of the utility~~

~~and a review of the utility's expenditures and operations to determine the appropriate levels of rates and charges. A request for the assistance of the staff must be made within 45 days after the last day of the test year selected by the utility to be audited.~~

~~—3.— Upon receipt of a request for assistance from the utility, the staff shall initiate an audit of the books of the utility and a review of its expenditures and operations.~~

~~—4.— ] preparing an application for a general rate change by submitting a written request for assistance to the Assistant Secretary of the Commission.~~

*2. Not later than 10 days after the Regulatory Operations Staff receives a utility's written request for assistance, the Regulatory Operations Staff shall notify the utility, in writing, of the information the Regulatory Operations Staff requires to make a determination of recommended rates and charges.*

*3. The Regulatory Operations Staff shall offer to meet with the utility not later than 30 days after the Regulatory Operations Staff receives the written request for assistance. At that meeting, the utility must:*

*(a) Make arrangements for the Regulatory Operations Staff to examine the books and records of the utility and to inspect the condition of the utility's facilities; and*

*(b) Except as otherwise provided in this paragraph, provide all the required information identified in the Regulatory Operations Staff's written notice issued pursuant to subsection 2. If the utility does not provide all the required information at the meeting, the utility may provide the required information not later than 15 days after the meeting. If the utility fails to provide the required information, the Regulatory Operations Staff shall notify the utility in writing that no further action will be taken on the request until the information is provided.*

4. *Following receipt of the required information identified in the Regulatory Operations Staff's written notice issued pursuant to subsection 2 to the utility, the Regulatory Operations Staff shall examine the books and records of the utility and inspect the condition of the utility's facilities.*

5. *Not later than 90 days after the Regulatory Operations Staff receives the required information identified in the written notice issued to the utility, the Regulatory Operations Staff shall:*

(a) *Complete the examination and inspection described in subsection 4; and*

(b) *If, ~~following the audit and a determination of recommended rates and charges,~~ based on the examination and inspection, the ~~staff~~ Regulatory Operations Staff determines that the rates and charges of the utility need to be changed, ~~the staff shall~~ prepare, on behalf of the utility, a draft of an application ~~which requests that such recommended rates and charges be put into effect. The staff shall provide a copy of the application to the utility.~~ ~~—5.]~~ for a general rate change.*

6. *If the utility elects to proceed with ~~the~~ an application ~~as prepared by the staff,~~ for a general rate change, the utility shall file the application, as prepared by the Regulatory Operations Staff or with modifications, with the Commission within ~~180~~ 45 days after ~~the last day of the test year selected.~~ receipt of the draft of the application. If the utility files an application that contains modifications to the draft of the application as prepared by the Regulatory Operations Staff, the utility must include with its application an explanation of those modifications, the basis for the modifications, workpapers detailing any modifications to calculations and any other accounting or financial data necessary to explain and justify the modifications.*



7. If the utility elects not to proceed with the application , ~~[in the form suggested by the staff,]~~ the utility may not ~~[file an application pursuant to NAC 704.580 or]~~ make another request for the assistance of the ~~[staff]~~ *Regulatory Operations Staff* for at least 1 year after the date of the previous request for assistance.

~~[6.]~~ 8. The Commission will issue ~~[a public notice of an application that has been prepared by the staff and filed by the utility pursuant to subsection 5. If no notice of intent to intervene has been filed by the Bureau of Consumer Protection in the Office of the Attorney General and no petition for leave to intervene has been filed by any interested and affected person by the deadline set by the Commission, the staff shall present the application at a meeting of the Commission.~~

~~—7.— If a notice of intent to intervene is filed or a petition for leave to intervene is granted, the Commission shall set the matter for an evidentiary hearing. An evidentiary hearing held pursuant to this subsection is subject to the provisions of subsection 3 of NAC 704.620.]~~ *an order on the application within 120 days. However, if necessary, the time in which the Commission issues an order on the application may be extended an additional 90 days.*

**Sec. 38.** NAC 704.625 is hereby amended to read as follows:

704.625 1. Each utility shall disclose in a separate statement as a part of its application all transactions in which it engaged during the preceding year or since its most recent filing with the Commission, whichever period is shorter, with any ~~[associated company]~~ *affiliate* or other person who is an owner or stockholder of ~~[any]~~ *the* utility company.

2. The statement must include the nature of the transactions, the amounts of money involved, and how those amounts were determined.

**Sec. 39.** NAC 704.6265 is hereby amended to read as follows:

704.6265 1. Any interested person may file a petition with the Commission to request that the Commission consider taking action to have a utility whose rates are subject to the jurisdiction of the Commission as set forth in NRS 704.095 placed in receivership. A petition filed with the Commission pursuant to this subsection must be served on the utility, the Regulatory Operations Staff, ~~[of the Commission,]~~ the Consumer's Advocate and the Bureau of Health Protection Services of the Health Division of the Department of Health and Human Services and must be accompanied by proof of service. The Commission may, on its own motion, initiate an investigation into whether such a utility should be placed in receivership.

2. The Commission will issue a public notice of a petition filed pursuant to subsection 1. The utility that is the subject of the notice of petition may file an answer to the petition within the time set forth in the notice.

3. On its own motion, upon the request of the utility or upon the request of any interested person who has filed comments pursuant to a notice of petition, the Commission will hold a hearing to determine whether the Commission should take action to have the utility placed in receivership.

4. In considering whether to take action to have the utility placed in receivership, the Commission may consider:

- (a) Whether the utility has complied with a written plan for the replacement or expansion of the plant of the utility that has been approved by the Commission;
- (b) Whether the utility is providing reasonably adequate service;
- (c) Whether the operation of the utility is affecting the public health in a detrimental manner;
- (d) Whether the utility can meet its financial obligations; or

(e) Any other factor that may become apparent from a petition, answers filed thereto, or evidence gathered at the hearing.

**Sec. 40.** NAC 704.627 is hereby amended to read as follows:

704.627 1. The ~~{staff}~~ *Regulatory Operations Staff* will conduct a periodic inspection of the facilities, books and records of each public utility subject to the provisions of NAC 704.570 to 704.628, inclusive ~~{}~~ *and sections 22 to 30, inclusive, of this regulation.* The frequency of the inspections will be based on the growth in customer base, customer satisfaction or any other change in the utility that would provide a reason for an inspection, or on the request of the Commission.

2. The ~~{staff}~~ *Regulatory Operations Staff* will notify the utility and the Bureau of Consumer Protection that an inspection will be made in accordance with this section. Within 30 days after the utility receives notice of the inspection, the utility shall provide the Commission with adhesive mailing labels individually addressed to each customer. The ~~{staff,}~~ *Regulatory Operations Staff*, through the Division of Consumer Complaint Resolution, will mail a survey to each customer of the utility which is scheduled for inspection.

3. After completing the inspection, the ~~{staff}~~ *Regulatory Operations Staff* will submit a written report of its findings and recommendations to the Commission, the utility and the Bureau of Consumer Protection. If the conclusion of the report is that the utility is not in compliance with the standards of service set forth in NAC 704.628, the utility shall submit to the Commission, within 30 days after its receipt of the report, its written response to the ~~{staff's}~~ findings and recommendations ~~{}~~ *of the Regulatory Operations Staff.* The utility may contest the findings and recommendations and request a hearing before the Commission. If no hearing is requested, the utility's response must indicate how the utility intends to comply with the

recommendations set forth in the [staff's] report [ ] of the *Regulatory Operations Staff*. If expenditures for construction are required for compliance, the utility shall include a timetable for the construction, an estimate of its cost, and an estimate of the effect, if any, of the expenditure on the utility's rates. Upon its receipt of the utility's response, the [staff] *Regulatory Operations Staff* will place the matter before the Commission. Whether or not a hearing is requested, the Commission may schedule a session to receive comments from the utility's customers on the quality of its service. The Commission will consider the survey of customers, the [staff's] *Regulatory Operations Staff's* report, the utility's response and the record of any hearing held before it approves or disapproves the findings and recommendations of the [staff] *Regulatory Operations Staff* or makes any findings and recommendations of its own.

**Sec. 41.** NAC 704.628 is hereby amended to read as follows:

704.628 Each public utility subject to the provisions of NAC 704.570 to 704.628, inclusive, *and sections 22 to 30, inclusive, of this regulation* shall comply with the following standards of service:

1. For water resources, water rights must be sufficient to supply adequate amounts of water to satisfy existing commitments.

2. For water production, the utility must be capable of producing, from surface or ground water sources or by obtaining water from another utility, sufficient quantities of water to meet the historic maximum daily demand of the system.

3. For water distribution, the distribution system of the utility must meet each of the following requirements:

(a) Service connections from the utility must not exceed the hydraulic capabilities of the system.

(b) The network of pipes of the system must be capable of delivering maximum day demand concurrently with required fire flows. Maximum day demand must be determined from historical records or, in the absence of historical data, calculated by using a factor of three times the average day demand. Requirements for fire flow and duration of the fire flow must be established by the county or local agency having jurisdiction over fire protection. In the absence of a local agency exercising jurisdiction over fire protection, the requirements for fire flow must be established ~~[utilizing the most current edition of the Uniform]~~ *using the International Fire Code, [which is hereby] as* adopted by reference ~~[. A copy of the Uniform Fire Code may be obtained, at a price of \$141.60, from the International Conference of Building Officials, 5360 Workman Mill Road, Whittier, California 90601, telephone (800) 284-4406, or on line at <http://www.icbo.org>]~~ *in section 49 of LCB File No. 043-08, which was adopted by the Commission and was filed with the Secretary of State on September 18, 2008.*

(c) The distribution system, in conjunction with production, storage and pressure control facilities, must be capable of maintaining, during periods of maximum day demand, a minimum residual pressure of 40 pounds per square inch throughout the distribution system. Static pressure must not exceed 100 pounds per square inch at the lowest elevation in any pressure zone. During periods of fire flow, the residual pressure at any point in the distribution system must not fall below 20 pounds per square inch.

(d) To deliver the quantity of water necessary to comply with the requirements of public fire protection, the utility shall provide and maintain an adequate quantity of hydrants at the prescribed spacing as established by the county or local agency having jurisdiction over fire protection. In the absence of any local agency having jurisdiction over fire protection, the spacing of fire hydrants must be determined by using the ~~[current edition of the Uniform]~~

*International Fire Code H, as adopted by reference in section 49 of LCB File No. 043-08, which was adopted by the Commission and was filed with the Secretary of State on September 18, 2008.*

(e) The utility shall not allow the amount of water lost from its distribution system because of leakage to exceed 10 percent of the amount of water required for the system.

(f) All water sources must have a master meter.

4. For storage, the utility must provide water under both of the following circumstances:

(a) The utility must have the ability to sustain a mechanical failure. When the single most critical pump is out of service, the pumping facilities and above-ground storage of the utility must be able to maintain the average daily flow rate plus the maximum required fire flow rate for the required duration.

(b) The utility must have the ability to sustain a power outage. To provide system reliability during a power outage, the utility shall comply with at least one of the following:

(1) In a power outage, pumping facilities with an alternative power source in conjunction with above-ground storage must be capable of delivering the required fire flow demand for the required duration plus maximum day demand for 1 day.

(2) Above-ground storage must be capable of providing the required fire flow for the required duration plus the average day demand for 1 day.

↪ As used in this paragraph, “above-ground storage” means the amount of water that is stored above an elevation which will maintain a hydraulic gradient above 20 pounds per square inch at any point within the distribution system during maximum demand.

5. For water quality, the quality must meet all existing state and federal standards for purity.

6. For administration and management, adequately trained personnel must be available to operate the utility under all reasonable circumstances. Books and records maintained by the utility must comply with the systems of accounts established for class *A, B and C* water and ~~[sewer]~~ *wastewater* utilities ~~[prepared by the National Association of Regulatory Utility Commissioners, which are hereby adopted by reference. A copy of the publication containing the system established for class C water utilities and for sewer utilities may be obtained, for the price of \$15 for the system of accounts for Class C water utilities and \$16 for the system of accounts for sewer companies, from the NARUC Publications, 1101 Vermont Avenue N.W., Suite 200, Washington, D.C. 20005, or on line at <http://www.naruc.org>], as adopted by reference pursuant to section 31 of this regulation.~~ Each utility shall develop and carry out a written operation and maintenance program, a cross-connection control program and an emergency plan containing procedures unique to each system. Each utility shall have on file, at an office maintained in the State of Nevada, updated drawings, maps or other permanent records to aid in the operation of the water system. The utility shall make and maintain a record of any repairs made to a distribution pipe that sets forth the location of the leak, the date the leak was repaired, an assessment of the cause of the leak and a description of the manner used to repair the pipe.

**Sec. 42.** NAC 703.2455, 704.571, 704.5715, 704.572, 704.573, 704.574, 704.580, 704.585, 704.590, 704.610, 704.620 and 704.626 are hereby repealed.

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**TEXT OF REPEALED SECTIONS**

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**703.2455 Filing requirements for utilities with annual gross operating revenues of less than \$250,000. (NRS 703.025, 704.210)** An applicant with annual gross operating revenues of less than \$250,000 shall submit statements A through P. Supporting schedules may be submitted in addition to the required statements.

**704.571 “Completed application” defined. (NRS 703.025, 704.095, 704.210)** “Completed application” means an application which has been submitted to the Commission for review, which includes all required fees and all the information requested in the forms furnished by the Commission and necessary for its determination, and which has been accepted by the Commission as complete.

**704.5715 “Question of policy” defined. (NRS 703.025, 704.095, 704.210)** “Question of policy” means an issue which is subject to the exercise of discretion by the Commission as applied to a particular set of facts.

**704.572 “Short-term debt” defined. (NRS 703.025, 704.095 704.210)** “Short-term debt” means a debt maturing within 1 year after the date of the balance sheet.

**704.573 “Tariff” defined. (NRS 703.025, 704.095, 704.210)** “Tariff” means the schedule of rates, charges, and regulations used by a utility.



**704.574 “Test year” defined. (NRS 703.025, 704.095, 704.210)** “Test year” means the 12-month period ending no later than 6 months before the filing of an application pursuant to NAC 704.580 or no later than 45 days before the submission of a request for the assistance of the staff pursuant to NAC 704.622.

**704.580 Application to change tariff. (NRS 703.025, 704.095, 704.210)**

1. Except as otherwise provided in NAC 704.622, whenever a utility desires to file a change in its tariff which will increase its annual revenues, the utility must submit a completed application, setting forth the proposed changes in its tariff and the reasons for the changes. The application must contain recorded results of revenues, expenses, investments and costs of capital for the test year and annualization adjustments as described in written instructions provided by the staff. The utility shall notify its customers of its intent to seek increased rates in accordance with NAC 704.587.

2. The Commission will give public notice of the application in accordance with its regulations and procedures. The Commission will not consider the request for a rate increase as filed until the submittal is complete and ready for the staff’s analysis.

**704.585 Additional information. (NRS 703.025, 704.095, 704.210)** The Commission or its staff may request a utility applying for a rate increase to submit information in addition to that specifically required in NAC 704.570 to 704.628, inclusive.

**704.590 Service of application. (NRS 703.025, 704.095, 704.210)** A utility shall serve a copy of the application on each party of record and on each county, municipality and general improvement district whose citizens would be affected by the proposed changes in rates.

**704.610 Required forms. (NRS 703.025, 704.095, 704.210)**

1. In applying for a general rate increase, a utility must complete:

- (a) Form A, Company Information (pages 1-2);
- (b) Form B, Tariff Rate Schedule;
- (c) Form C, Income Statement;
- (d) Form D, Rate Base;
- (e) Form E, Cost of Capital;
- (f) Form F, Statement of Services;
- (g) Form G, Customer Notice;
- (h) Form H, Verification of Application Accuracy; and
- (i) Form I, Affidavit of Service and Posting.

↳ The forms are available from the Commission.

2. Until the utility has completed the forms and verified their accuracy, its application will not be considered by the Commission.

**704.620 Hearing on application for rate change. (NRS 703.025, 704.095, 704.210)**

1. The Commission may set the matter for hearing if, in its judgment, the public convenience and necessity require a hearing.

2. The record of a public hearing convened solely to receive comments from customers may be reported by the Commission's sound recording equipment as provided in NRS 703.330 under the direction of the presiding officer. The Commission Secretary will file and maintain the tapes.

3. The utility shall provide a stenographer for reporting and transcribing a complete record of the evidentiary hearing. The cost of recording and transcribing must be paid by the utility. At least 5 days before the date on which the evidentiary hearing is scheduled, the utility shall notify the Commission that the utility has made arrangements for the reporting and transcription of the

complete record of the evidentiary hearing. The utility shall provide the Commission with the original of the transcript not later than 10 days after the conclusion of the hearing.

4. If the utility is required to present and justify its requested changes in rates, it shall be prepared to explain the information included in its application and may supplement its application with a statement of increased revenues, any increased investment in facilities, increased depreciation expenses, any other operating expenses approved by the Commission, and any changes in the costs of securities which are known, measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of the test year. The supplemental information must be provided no sooner than 90 calendar days after the date on which the utility files its application.

5. The Commission will issue its opinion and order in the matter not later than 180 days after the completed application has been filed.

**704.626 Return on equity. (NRS 703.025, 704.095, 704.210)**

1. The Commission will determine the reasonable return on equity for each public utility subject to the provisions of NAC 704.570 to 704.628, inclusive. A determination will be made:

- (a) When deemed necessary by the Commission;
- (b) At the request of the staff; or
- (c) At the request of the Consumer's Advocate,

↳ but no more frequently than one time every 2 years.

2. The Commission will notify the staff, the Consumer's Advocate, and all public utilities subject to the provisions of NAC 704.570 to 704.628, inclusive, of its recommended return on equity. Any party may file written comments and request a hearing with the Commission

regarding the Commission's recommended return on equity. If a hearing is so requested, the Commission will notify all parties of the date set for the hearing.

3. The return on common equity determined by the Commission in the proceeding will be used by the Commission in evaluating each application for a change in rates filed by a public utility subject to the provisions of NAC 704.570 to 704.628, inclusive, during those years, unless a party of record to the proceeding notifies the Commission and the other parties of record, in writing, before the deadline set for petitions for leave to intervene, of its intent to present evidence in support of a different rate of return on common equity.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS  
AS REQUIRED BY NRS 233B.066  
LCB FILE R036-10 (DOCKET NO. 09-02025)**

The following informational statement is submitted for adopted amendments to Nevada Administrative Code Chapters 703 and 704.

**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://puc.nv.gov>, 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

Pahrump Utility Company, Inc., Utilities, Inc., the Attorney General’s Bureau of Consumer Protection, and the Regulatory Operations Staff all advocated changes that would streamline various rate making matters before the PUCN, including shortened review periods, standard formulas and calculations, and limits on data requests.

Copies of the transcripts of the proceedings are 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:** October 22, 2010 - 5
  - (b) **Testified at each hearing:** October 22, 2010 - 5
  - (c) **Submitted to the agency written comments:** 3
  
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 December 8, 2010. Changes were made to the proposed regulations.

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:

The regulations will result in less money being expended by the water and sewer utilities on rate cases, such as legal fees, accounting fees, etc. That, in turn, will avoid an eventual pass through of such expenses to customers, including small businesses. Smaller, more frequent adjustments will potentially avoid the large and abrupt rate increases common with water and sewer utilities whose applications are infrequent. This will also result in the utilities' rates more closely tracking the costs of other goods, which fluctuate according to the rate of inflation.

(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.

**BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA**

Rulemaking to adopt, amend, or repeal )  
regulations regarding rate applications for )  
water and sewer utilities. )  
\_\_\_\_\_ )

Docket No. 09-02025

At a general session of the Public Utilities  
Commission of Nevada, held at its offices on  
December 8, 2010.

PRESENT: Chairman Sam A. Thompson  
Commissioner Rebecca D. Wagner  
Commissioner Alaina Burtenshaw  
Assistant Commission Secretary Breanne Potter

**ORDER**

The Public Utilities Commission of Nevada (“Commission”) makes the following  
findings of fact and conclusions of law:

**I. INTRODUCTION**

The Commission opened a rulemaking to adopt, amend, or repeal regulations regarding  
simplified ratemaking procedures for small water and sewer utilities. The proceeding was later  
expanded to encompass all regulated water and sewer utilities.

**II. SUMMARY**

The proposed regulations, attached hereto as Attachment 1, are adopted as permanent  
regulations.

An investigation into the effect of tiered rates on the revenues of water utilities will be  
opened.

**III. PROCEDURAL HISTORY**

- On February 25, 2009, the Commission opened the rulemaking regarding rate applications for  
certain small water and sewer utilities prepared with the assistance of the Commission’s  
Regulatory Operations Staff (“Staff”).<sup>1</sup> On April 16, 2009, the Commission expanded the scope

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<sup>1</sup> This matter arose from a Petition filed by Staff in Docket No. 09-01023, requesting that the Commission open the  
rulemaking.



of the rulemaking to include a review of all regulations regarding rate applications for water and sewer utilities. This rulemaking is designated as Docket No. 09-02025.

- This rulemaking was opened pursuant to the Nevada Revised Statutes (“NRS”) and the Nevada Administrative Code Chapters 233B, 703, and 704.
- On June 8, 2009, the Commission issued a Notice of Request for Comments and Proposed Language and Notice of Workshop.
- Comments were filed by Edgewood Water Co. (“Edgewood”), Gold Country Water Company (“Gold Country”), Pahrump Utility Company, Inc. (“PUCI”), Staff, and Utilities, Inc. (“UI”). Reply comments were filed by the Attorney General’s Bureau of Consumer Protection (“BCP”), Edgewood, PUCI, Staff, and UI.
- On August 20, 2009, the Commission held a workshop. Appearances were made by BCP, Edgewood, Gold Country, PUCI, Staff, and UI.
- On August 27, 2009, Staff filed information on rate suspension at the request of the Hearing Officer during the workshop.
- On September 29, 2009, the Commission issued an Order in Docket No. 09-01010, adopting the Hearing Officer’s Report recommending that the Commission adopt regulation as part of the rulemaking in Docket No. 09-02025 on the allowance of cash working capital for all water and sewer utilities using the Formula Method (1/8) as an acceptable substitute for conducting a lead lag study.
- On March 10, 2010, the proposed regulations were sent to the Legislative Counsel Bureau (“LCB”) for review pursuant to NRS 233B.063.
- On April 13, 2010, the Hearing Officer issued a Procedural Order, directing Staff to conduct an investigation pursuant to NRS 233B.0608 to determine whether the proposed regulations issued by the Hearing Officer are likely to: (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.
- On May 28, 2010, following Staff’s recommendation at Utility Agenda 09-10, the Commission issued an Order finding that the proposed regulations do not impose a direct and significant economic burden upon small businesses, nor do they directly restrict the formation, operation, or expansion of a small business.
- On August 24, 2010, the proposed regulations (LCB File No. 036-10) were returned to the Commission by LCB in revised form.
- On August 27, 2010, the Commission issued a Notice of Intent to Act Upon a Regulation, Notice of Workshop and Notice of Hearing for the Adoption, Amendment and Repeal of Regulations of the Public Utilities Commission of Nevada.

- On October 6, 2010, comments were filed by PUCI, Staff, and UI.
- On October 20, 2010, a workshop was held. Appearances were made by BCP, Edgewood, PUCI, Staff, and UI.
- On October 22, 2010, a hearing was held. Appearances were made by BCP, Edgewood, PUCI, Staff, and UI.
- On October 28, 2010, Staff filed proposed language on a formulaic return on equity.
- On November 3, 2010, BCP and UI filed comments.

#### **IV. REGULATIONS**

1. As a result of the discussions with participants at the workshop and hearing as well as the comments submitted by the participants thereafter, revisions were made to the proposed regulations, attached hereto as Attachment 1.

2. The Commission believes that the proposed regulations implement simplified procedures for water and sewer utilities to recover the changing costs of providing utility service. This, in turn, should reduce overall regulatory expenditures by the utilities and, correspondingly, overall rates paid by customers.

3. Based on the foregoing, the Commission finds that it is in the public interest to adopt as permanent the proposed regulations attached hereto as Attachment 1.

#### **V. INVESTIGATION**

4. For the past several years, the Commission has implemented tiered rates for water service with the goal of encouraging conservation by utility customers. However, by introducing rates based on the quantity of water used, an element of risk is injected which may impact the utility's reasonable opportunity to earn a return on its investment. (Workshop Tr. at 195:9-200:7.) While there was discussion on how to address revenue shortfalls following the

implementation of tiered rates, the Commission believes that more information is needed on the matter.

5. For water utilities that the Commission regulates, recovery of costs associated with system improvements are a constant concern, especially given the regulatory lag in Nevada. While there was discussion on how to minimize regulatory lag and provide for more flexible rate recovery mechanisms, the Commission believes that more information is needed on the matter.

6. Based on the foregoing, the Commission finds that it is in the public interest to open an investigation into the recovery of distribution system improvement costs as well as the effect of tiered rates on the revenues of water utilities.

THEREFORE, it is ORDERED that:

1. The proposed regulations attached hereto as Attachment 1 are ADOPTED AS PERMANENT pursuant to NRS 233B.063.

2. An investigation into the recovery of distribution system improvement costs as well as the effect of tiered rates on the revenues of water utilities shall be OPENED.

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3. The Commission retains jurisdiction for the purpose of correcting any errors that may have occurred in the drafting or issuance of the Order.

By the Commission,

                  /s/                    
SAM A. THOMPSON, Chairman

                  /s/                    
REBECCA D. WAGNER, Commissioner

                  /s/                    
ALAINA BURTENSHAW, Commissioner

Attest:                   /s/                    
BREANNE POTTER,  
Assistant Commission Secretary

Dated: Carson City, Nevada

          12-8-10          

(SEAL)