

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

LCB File No. R070-15

Effective April 4, 2016

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

AUTHORITY: §§1 and 2, NRS 427A.797, as amended by section 2 of Assembly Bill No. 200, chapter 191, Statutes of Nevada 2015, at page 888, and NRS 703.025.

A REGULATION relating to telecommunications; revising provisions relating to the establishment of the amount of the surcharge on certain telephone services to fund a program to provide devices for telecommunication or other assistive technology to persons who are deaf or have severely impaired speech or hearing; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Aging and Disability Services Division of the Department of Health and Human Services to develop and administer a program to provide devices for telecommunication or other assistive technology to persons who are deaf or have severely impaired speech or hearing and to fund centers to provide various services for such persons. Funding for the program is provided by a surcharge imposed on each telephone and wireless telephone line of each customer in this State, and the amount of the surcharge is established by the Public Utilities Commission of Nevada. Before the passage of Assembly Bill No. 200 of the 2015 Legislative Session, existing law also required that the program developed by the Division be approved by the Commission. (NRS 427A.797) Assembly Bill No. 200 eliminated the requirement for approval of the program by the Commission and limited the amount of the surcharge to not more than 8 cents per month. (NRS 427A.797, as amended by section 2 of Assembly Bill No. 200, chapter 191, Statutes of Nevada 2015, at page 888.)

Existing regulations provide that the Commission will, after an investigation and hearing, notify each carrier of the amount of the surcharge to be assessed and collected for the year that begins on July 1 not later than the immediately preceding June 1. (NAC 707.020) **Section 1** of this regulation establishes certain additional procedures, which include: (1) the filing by the Division, on or before February 1 of each year, of an application, which may include the approved annual program budget, that requests the Commission to establish the amount of the surcharge for the upcoming year; and (2) the filing with the Commission by its Regulatory Operations Staff, on or before the following March 1, of the Staff’s calculation of a proposed amount of the surcharge. **Section 1** also revises existing regulations which provide that the Commission will hold a hearing before establishing the amount of the surcharge and provides instead that the Commission may dispense with such a hearing if it is not requested by a carrier

unless the Commission determines that a hearing is necessary or required by statute. **Section 2** of this regulation repeals existing regulations relating to the Commission's approval of the program in order to conform to the changes made by Assembly Bill No. 200.

Section 1. NAC 707.020 is hereby amended to read as follows:

707.020 1. *The Commission will, on an annual basis, establish the amount of the surcharge to be assessed and collected for the program developed pursuant to NRS 427A.797, as amended by section 2 of Assembly Bill No. 200, chapter 191, Statutes of Nevada 2015, at page 888, by the Aging and Disability Services Division of the Department of Health and Human Services.*

2. *If, on or before February 1 of each year, the Division files an application with the Commission requesting the establishment of the amount of the surcharge and includes the approved annual program budget, the Commission will, except as otherwise provided in NRS 427A.797, as amended by section 2 of Assembly Bill No. 200, chapter 191, Statutes of Nevada 2015, at page 888, base its calculation of the amount of the surcharge on the budget as filed.*

3. *On or before March 1 of each year, the Regulatory Operations Staff of the Commission shall file its calculation of a proposed amount of the surcharge with the Commission.*

4. *Within 10 days after the Regulatory Operations Staff of the Commission files its calculation of a proposed amount of the surcharge pursuant to subsection 3, any carrier or interested person may file comments on the proposed amount of the surcharge, and any carrier may request a hearing on the matter. If no request for a hearing is received by the Commission, it will dispense with a hearing and act upon the matter unless it finds that a hearing is necessary or required by statute.*

5. On or before June 1 of each year, the Commission ~~[- after an investigation and hearing,]~~ will *establish and* notify each carrier of the amount of the surcharge to be assessed and collected

for the period from July 1 of that year to June 30 of the next year from each of its customers ~~for the program developed pursuant to~~ *pursuant to this section and* NRS 427A.797 ~~by the Aging and Disability Services Division of the Department of Health and Human Services.~~, *as amended by section 2 of Assembly Bill No. 200, chapter 191, Statutes of Nevada 2015, at page 888.*

6. The surcharge will be assessed ~~for each line of access~~ *in the manner set forth in NRS 427A.797, as amended by section 2 of Assembly Bill No. 200, chapter 191, Statutes of Nevada 2015, at page 888*, and will be either a percentage of the basic charge for service to the customer or an equal amount for each customer in a class of customers. ~~An intraexchange carrier may not list the surcharge as a separate item on the customer's bill unless the intraexchange carrier demonstrates to the Commission that it would be unduly burdensome to comply with this provision.~~

~~2. The Commission, upon its own motion or upon the petition of an interested person for good cause shown, will conduct a hearing to evaluate the reasonableness of the surcharge currently in effect.~~

~~3.~~ The surcharge must be billed by each carrier to its customers on a monthly basis.

7. *For the purposes of this section, "annual program budget" includes, without limitation, the amounts established by the Division to:*

(a) Cover the costs of the program;

(b) Fund the centers for persons who are deaf or have severely impaired speech or hearing established pursuant to subsection 2 of NRS 427A.797, as amended by section 2 of Assembly Bill No. 200, chapter 191, Statutes of Nevada 2015, at page 888; and

(c) Cover the costs incurred by the Division to carry out the provisions of chapter 656A of NRS that are not covered by the civil penalties received by the Division pursuant to NRS 656A.800.

Sec. 2. NAC 707.050 is hereby repealed.

TEXT OF REPEALED SECTION

707.050 Review by Commission of program to provide devices for telecommunication to persons with impaired speech or hearing. (NRS 427A.797, 703.025) The Commission will review and approve or disapprove the program developed pursuant to NRS 427A.797 by the Aging and Disability Services Division of the Department of Health and Human Services at the hearing held by the Commission each year to determine the amount of surcharge for an upcoming period.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R070-15

1. A clear and concise explanation of the need for the adopted regulation.

The regulation promulgates provisions revising the process by which the Public Utilities Commission of Nevada ("PUCN") sets the surcharge to be imposed on each telephone and wireless telephone line of each customer in the State to provide devices for telecommunication to persons with impaired speech or hearing.

2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

(a) Copies of the proposed regulation, 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 PUCN, <http://puc.nv.gov>, mailed to all county libraries in Nevada, published in the following newspapers:

Ely Times
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
9075 West Diablo Drive, Suite 250
Las Vegas, Nevada 89148

(b) Central Telephone Company d/b/a CenturyLink and CenturyTel of the Gem State, Inc. d/b/a CenturyLink ("CenturyLink"); Nevada Bell Telephone Company d/b/a AT&T Nevada and AT&T Wholesale ("AT&T"); the Nevada Telecommunications Association ("NTA"); and the Regulatory Operations Staff ("Staff") of the Commission filed comments in the matter. The persons filing written comments supported the regulation as proposed.

(c) 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 9075 West Diablo Drive, Suite 250, Las Vegas, Nevada 89148.

3. The number of persons who:

- (a) Attended each hearing: 3**
- (b) Testified at each hearing: 3**
- (c) Submitted written comments: 4**

4. **For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**
- (a) **Name;**
 - (b) **Telephone number;**
 - (c) **Business address;**
 - (d) **Business telephone number;**
 - (e) **Electronic mail address; and**
 - (f) **Name of entity or organization represented.**

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5. **A description of how comment was solicited from affected businesses, a summary of their response and an explanation of 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 2(c).

6. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

All interested persons who filed written comments and participated in the hearing supported the regulation as proposed.

7. **The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include: both adverse and beneficial effects, and both immediate and long-term effects.**

(a) Estimated economic effect on the businesses which they are to regulate.

The regulation does not impose any economic effect on the businesses the regulation is to regulate.

(b) Estimated economic effect on the public which they are to regulate.

The regulation does not regulate the public.

8. **The estimated cost to the agency for enforcement of the proposed regulation:**

Any costs associated with the regulation are considered incremental in nature.

9. **A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The regulation does not overlap any other local, State, or Federal regulations.

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

N/A

11. **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

12. **If the proposed regulation is likely to impose a direct and significant 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 Regulatory Operations Staff (“Staff”) of the Commission conducted a Delphi Method exercise to determine the impact of this proposed regulation on small businesses. The Delphi Method is a systematic, interactive, forecasting method based on independent inputs

of selected experts. In this instance, the participants were members of Staff. Each participant in the exercise used his background and expertise to reflect upon and analyze the impact of the proposed regulation on small businesses. Based upon Staff's analysis, Staff recommended to the Commission that the Commission find that the proposed regulation will not impose a direct and significant economic burden on small businesses or directly restrict the formation, operation or expansion of a small business. The Commission accepted Staff's recommendation and found that the proposed regulation does not impose a direct or significant economic burden upon small businesses, nor does it directly restrict the formation, operation, or expansion of a small business, and therefore a small business impact statement pursuant to NRS 233B.0608(2) is not required. This finding was memorialized in an Order issued in Docket No. 15-06045 on November 5, 2015.