
SENATE BILL NO. 207—SENATORS MATHEWS, AMODEI AND MCGINNESS

FEBRUARY 17, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Requires public utilities commission of Nevada to establish standards of conduct and reporting relating to provision of local telecommunication services. (BDR 58-1034)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

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

AN ACT relating to the public utilities commission of Nevada; requiring the commission to establish standards of conduct and reporting relating to the provision of local telecommunication services; requiring the commission to establish civil penalties for actions that are inconsistent with the standards; providing an expedited procedure to resolve certain complaints alleging violations of the standards; placing conditions on the approval of interconnection agreements by the commission; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND
ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 703 of NRS is hereby amended by adding thereto a
2 new section to read as follows:
3 ***1. If a complaint is filed by a public utility against another public***
4 ***utility alleging a violation of a standard of conduct or reporting***
5 ***established by the commission pursuant to section 4 of this act and the***
6 ***division of consumer complaint resolution determines that it cannot***
7 ***resolve the complaint within 20 days after the date on which the division***
8 ***receives the complaint, the division shall, immediately upon making that***
9 ***determination, transmit the complaint to the commission.***
10 ***2. Except as otherwise provided in this section, not later than 3***
11 ***business days after receiving such a complaint from the division of***
12 ***consumer complaint resolution, the commission shall:***
13 ***(a) Assign a commissioner to adjudicate the complaint;***

1 ***(b) Assign a date, time and location for a preliminary hearing, which***
2 ***must be held not later than 15 days after the date on which the***
3 ***commissioner is assigned to adjudicate the complaint; and***

4 ***(c) Notify the parties to the complaint of the date, time and location of***
5 ***the preliminary hearing.***

6 ***3. At the preliminary hearing, the commissioner assigned to***
7 ***adjudicate the complaint shall:***

8 ***(a) Determine the scope and procedure to be used to adjudicate the***
9 ***complaint; and***

10 ***(b) Set a schedule for the adjudication of the complaint and the***
11 ***issuance of a final recommendation.***

12 ***4. Except as otherwise provided in this section, a final***
13 ***recommendation must be filed with the commission and served on all***
14 ***parties to the complaint not later than 60 days after the date on which the***
15 ***preliminary hearing is concluded. Not later than 30 days after the date***
16 ***on which the final recommendation is filed with the commission, the***
17 ***commission shall issue a decision approving, modifying or rejecting the***
18 ***final recommendation. If the commission fails to issue a decision within***
19 ***the 30-day period, the final recommendation shall be deemed to be***
20 ***approved by the commission. A final recommendation that is deemed to***
21 ***be approved by the commission pursuant to this subsection is a final***
22 ***decision for the purposes of judicial review.***

23 ***5. Pending the issuance of the decision of the commission approving,***
24 ***modifying or rejecting the final recommendation, the commissioner***
25 ***assigned to adjudicate the complaint may impose preliminary injunctive***
26 ***relief in a manner determined by that commissioner to serve the public***
27 ***interest and to preserve the rights of the parties to the complaint. The***
28 ***imposition of such injunctive relief shall be deemed a final decision of***
29 ***the commission for the purposes of judicial review.***

30 ***6. Upon the majority vote of the entire commission, the commission***
31 ***may extend any deadline set forth in subsection 2, 3 or 4 if the***
32 ***commission determines that the extension of time is in the best interests***
33 ***of consumers.***

34 ***7. Judicial review of a decision pursuant to this section must be***
35 ***made in accordance with NRS 703.373 to 703.376, inclusive.***

36 ***8. Notwithstanding any provision of subsection 3 to the contrary, the***
37 ***commission may adopt regulations to define any acts, conditions and***
38 ***relief necessary to dispense with any hearing to enforce the provisions of***
39 ***this section.***

40 ***Sec. 2. NRS 703.310 is hereby amended to read as follows:***

41 ***703.310 1. When a complaint is made against any public utility or***
42 ***alternative seller by any person, that any of the rates, tolls, charges or***
43 ***schedules for regulated services, or any joint rate or rates are in any respect***

1 unreasonable or unjustly discriminatory, or any regulation, measurement,
2 practice or act affecting or relating to the production, transmission or
3 delivery or furnishing of **telecommunication services**, heat, light, gas, coal
4 slurry, water or power, or any service in connection therewith or the
5 transmission thereof is, in any respect, unreasonable, insufficient or
6 unjustly discriminatory, or that any service is inadequate, the division of
7 consumer complaint resolution shall investigate the complaint. After
8 receiving the complaint, the division shall give a copy of it to the public
9 utility or alternative seller against whom the complaint is made. Within a
10 reasonable time thereafter, the public utility or alternative seller shall
11 provide the commission with its written response to the complaint
12 according to the regulations of the commission.

13 2. ~~[[~~ ***Except as otherwise provided in section 1 of this act, if*** the
14 division of consumer complaint resolution is unable to resolve the
15 complaint, the division shall transmit the complaint, the results of its
16 investigation and its recommendation to the commission. If the commission
17 determines that probable cause exists for the complaint, it shall order a
18 hearing thereof, give notice of the hearing and conduct the hearing as it
19 would any other hearing.

20 3. No order affecting a rate, toll, charge, schedule, regulation,
21 measurement, practice or act complained of may be entered without a
22 formal hearing unless the hearing is dispensed with as provided in NRS
23 703.320 ~~[.]~~ ***or section 1 of this act.***

24 **Sec. 3.** NRS 703.320 is hereby amended to read as follows:

25 703.320 1. When, in any matter pending before the commission, a
26 hearing is required by law, or is normally required by the commission, the
27 commission shall give notice of the pendency of the matter to all persons
28 entitled to notice of the hearing. The commission shall by regulation
29 specify:

30 (a) The manner of giving notice; and

31 (b) Where not specified by law, the persons entitled to notice in each
32 type of proceeding.

33 2. Unless, within 10 days after the date of the notice of pendency, a
34 person entitled to notice of the hearing files with the commission a request
35 that the hearing be held, the commission may dispense with a hearing and
36 act upon the matter pending.

37 3. If a request for a hearing is filed, the commission shall give at least
38 10 days' notice of the hearing.

39 4. ***The provisions of this section do not apply to a complaint filed by***
40 ***a public utility against another public utility that alleges a violation of a***
41 ***standard of conduct established by the commissioner pursuant to section***
42 ***4 of this act.***

1 **Sec. 4.** Chapter 704 of NRS is hereby amended by adding thereto a
2 new section to read as follows:

3 **1. The commission shall, by regulation:**

4 **(a) Establish standards of conduct and reporting that encourage and**
5 **are consistent with the provision of basic local exchange service and**
6 **other related local telecommunication services in a competitive market**
7 **and that discourage anticompetitive conduct; and**

8 **(b) In addition to the procedures established in section 1 of this act,**
9 **establish civil penalties and procedures for imposing the penalties for**
10 **actions that are inconsistent with the standards. Such penalties are in**
11 **lieu of the civil penalties set forth in NRS 703.380. Any penalty imposed**
12 **pursuant to this paragraph must be in such an amount as the**
13 **commission determines to be reasonable to further the goal of promoting**
14 **competition in the provision of basic local exchange service and other**
15 **related local telecommunication services. Any judicial review of a**
16 **decision by the commission to impose a penalty pursuant to this**
17 **subsection must be made in accordance with NRS 703.373 to 703.376,**
18 **inclusive.**

19 **2. The commission shall not find that an interconnection agreement**
20 **is consistent with the public interest, convenience and necessity for the**
21 **purposes of 47 U.S.C. § 252(e)(2)(A)(ii) unless the commission**
22 **determines that the agreement furthers and promotes competition in the**
23 **provision of basic local exchange service and other related local**
24 **telecommunication services by providing for:**

25 **(a) Compliance with the standards of conduct and reporting**
26 **established by the commission pursuant to this section; and**

27 **(b) The payment of liquidated damages to the injured party for failure**
28 **to comply with such standards, except that the interconnection agreement**
29 **must not provide that the imposition of damages is the exclusive remedy**
30 **of the parties to the agreement.**

31 **Sec. 5.** NRS 704.640 is hereby amended to read as follows:

32 704.640 ~~{Any}~~ **Except as otherwise provided in section 4 of this act,**
33 **any person who:**

34 1. Operates any public utility to which NRS 704.005 to 704.751,
35 inclusive, and **section 4 of this act and NRS** 704.993 to 704.999, inclusive,
36 apply without first obtaining a certificate of public convenience and
37 necessity or in violation of its terms;

38 2. Fails to make any return or report required by NRS 704.005 to
39 704.751, inclusive, and **section 4 of this act and NRS** 704.993 to 704.999,
40 inclusive, or by the commission pursuant to NRS 704.005 to 704.751,
41 inclusive, and **section 4 of this act and NRS** 704.993 to 704.999, inclusive;

- 1 3. Violates, or procures, aids or abets the violating of any provision of
- 2 NRS 704.005 to 704.751, inclusive, and ***section 4 of this act and NRS***
- 3 704.993 to 704.999, inclusive;
- 4 4. Fails to obey any order, decision or regulation of the commission;
- 5 5. Procures, aids or abets any person in his failure to obey the order,
- 6 decision or regulation; or
- 7 6. Advertises, solicits, proffers bids or otherwise holds himself out to
- 8 perform as a public utility in violation of any of the provisions of NRS
- 9 704.005 to 704.751, inclusive, and ***section 4 of this act and NRS*** 704.993
- 10 to 704.999, inclusive,
- 11 shall be fined not more than \$500.

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