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MOCK-UP

PROPOSED AMENDMENT TO
SENATE BILL NO. 400
FIRST REPRINT

PREPARED FOR ASSEMBLY COMMITTEE ON COMMERCE AND LABOR
MAY 23, 2003

PREPARED BY THE LEGAL DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN
CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE
OFFICIAL AMENDMENT MAY DIFFER.

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~green bold italic underlining~~ is language proposed to be deleted in this amendment and (5) *green bold dashed underlining* is deleted language in the original bill that is proposed to be retained in this amendment.

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

- 1 Section 1. Chapter 704 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 8, inclusive, of this act.
3 Sec. 2. *"Affiliate of an incumbent local exchange carrier" or*
4 *"affiliate" means a competitive provider of telecommunication service*
5 *that is controlled by or under common control with an incumbent local*
6 *exchange carrier to the extent the competitive provider of*
7 *telecommunication service is doing business within any service territory*
8 *in which its affiliated incumbent local exchange carrier has been*
9 *designated by the Commission as the provider of last resort of basic*
10 *service.*
11 Sec. 3. *"Deregulated service" means:*
12 1. *Any voice messaging service or other information service; or*
13 2. *Any telecommunication service that the Commission classifies as*
14 *a deregulated service pursuant to NRS 704.6896.*
15 Sec. 4. 1. *"PAR carrier" means an incumbent local exchange*
16 *carrier that is regulated under a plan of alternative regulation approved*
17 *by the Commission pursuant to subsection 4 of NRS 704.040.*
18 2. *The term includes, but is not limited to, an electing PAR carrier.*

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PROPOSED AMENDMENT TO SB400_R1

ASSEMBLY COMMERCE & LABOR 1817
DATE: 5/26/03 ROOM: 4100 EXHIBIT C
SUBMITTED BY: LCB

1 **Sec. 5. "Telecommunication" means the transmission, between or**
2 **among points specified by the user, of information of the user's**
3 **choosing, without change in the form or content of the information sent**
4 **and received, regardless of the facilities used.**

5 **Sec. 6. ~~"Telecommunication service" means to offer, for a fee:~~**

6 ~~1. Any telecommunication directly to the public; or~~
7 ~~2. Any access service to interexchange carriers.~~
8 **"Telecommunication service" means the offering of telecommunication**
9 **for a fee directly to the public, or such classes of users as to be effectively**
10 **available directly to the public, regardless of the facilities used.**

11 **Sec. 7. In exercising flexibility in the pricing or terms of its services**
12 **pursuant to NRS 704.68904 to 704.68984, inclusive, and sections 2 to 7,**
13 **inclusive, of this act, a PAR carrier shall not engage in any**
14 **anticompetitive act or practice or unreasonably discriminate among**
15 **similarly situated customers.**

16 **Sec. 8. 1. Except as otherwise provided in subsection ~~2~~ 2 and**
17 **NRS 704.68984, the Commission shall not regulate any broadband**
18 **service, including imposing any requirements relating to the terms,**
19 **conditions, rates or availability of broadband service.**

20 ~~2. The provisions of subsection 1 do not~~
21 ~~limit or modify the duties of an incumbent local exchange~~
22 ~~carrier or an affiliate of an incumbent local exchange carrier to provide~~
23 ~~unbundled access to network elements to the extent required under 47~~
24 ~~C.F.R. §§ 251 and 252, and 47 C.F.R. § 51.319 or any successor~~
25 ~~regulations issued by the Federal Communications Commission, at rates~~
26 ~~determined in accordance with the standards established by the Federal~~
27 ~~Communications Commission pursuant to 47 C.F.R. §§ 51.503 to~~
28 ~~51.513, inclusive, or any successor regulations; or~~

29 ~~(b) Prohibit the Commission from~~

30 **2. The provisions of subsection 1 do not limit or modify the**
31 **authority of the Commission to:**

32 ~~1. Considering~~

33 **(a) Consider any revenues, costs and expenses that a public utility**
34 **derives from providing a broadband service, if the Commission is**
35 **determining the rates of the public utility under a general rate**
36 **application that is filed pursuant to subsection 3 of NRS 704.110;**

37 ~~2. Acting on a consumer complaint pursuant to NRS 703.310, if~~
38 ~~the consumer complaint relates to a broadband service that is provided~~
39 ~~by a public utility;~~

40 **(b) Act on a complaint filed pursuant to NRS 703.310, if the**
41 **complaint relates to a broadband service that is provided by a public**
42 **utility;**

43 ~~3. Including~~

44 **(c) Include any appropriate gross operating revenue that a public**
45 **utility derives from providing broadband service when the Commission**

1 calculates the gross operating revenue of the public utility for the
2 purposes of levying and collecting the annual assessment in accordance
3 with the provisions of NRS ~~704.033~~ 704.033; or

4 (d) Determine the rates, terms and conditions of intrastate special
5 access services.

6 3. As used in this section:

7 (a) "Affiliate of an incumbent local exchange carrier" has the
8 meaning ascribed to it in section 2 of this act.

9 (b) "Broadband service" means any two-way service that transmits
10 information at a rate that is generally not less than ~~499~~ 200 kilobits per
11 second in at least one direction.

12 (c) "Incumbent local exchange carrier" has the meaning ascribed to
13 it in NRS 704.68932.

14 Sec. 9. NRS 704.020 is hereby amended to read as follows:

15 704.020 1. "Public utility" or "utility" includes:

16 (a) Any person who owns, operates, manages or controls any railroad
17 or part of a railroad as a common carrier in this state, or cars or other
18 equipment used thereon, or bridges, terminals, or sidetracks, or any docks
19 or wharves or storage elevators used in connection therewith, whether or
20 not they are owned by the railroad.

21 (b) ~~{Telephone companies and other companies which provide~~
22 ~~telecommunication or a related}~~ Any telephone company that provides a
23 telecommunication service to the public, but only with regard to those
24 operations of the telephone company which consist of providing a
25 telecommunication service to the public.

26 (c) ~~{Radio}~~ Any radio or broadcasting ~~{instrumentalities providing}~~
27 company or instrumentality that provides a common or contract service.

28 (d) ~~{All companies which own}~~ Any company that owns cars of any
29 kind or character, used and operated as a part of railroad trains, in or
30 through this state. All duties required of and penalties imposed upon any
31 railroad or any officer or agent thereof are, insofar as applicable, required
32 of and imposed upon the owner or operator of any telephone ~~{, radio and~~
33 ~~broadcasting companies, companies providing telecommunication or~~
34 ~~related services}~~ company that provides a telecommunication service to
35 the public, any radio or broadcasting company or instrumentality that
36 provides a common or contract service and ~~{companies which own}~~ any
37 company that owns cars of any kind or character, used and operated as a
38 part of railroad trains in or through this state, and their officers and agents,
39 and the Commission may supervise and control all such companies,
40 instrumentalities and persons to the same extent as railroads.

41 2. "Public utility" or "utility" also includes:

42 (a) Any person who owns, operates or controls any ditch, flume, tunnel
43 or tunnel and drainage system, charging rates, fares or tolls, directly or
44 indirectly.

(b) Any plant or equipment, or any part of a plant or equipment, within this state for the production, delivery or furnishing for or to other persons, including private or municipal corporations, heat, gas, coal slurry, light, power in any form or by any agency, water for business, manufacturing, agricultural or household use, or sewerage service, whether or not within the limits of municipalities.

(c) Any system for the distribution of liquefied petroleum gas to 10 or more users.

The Commission may supervise, regulate and control all such utilities, subject to the provisions of this chapter and to the exclusion of the jurisdiction, regulation and control of such utilities by any municipality, town or village, unless otherwise provided by law.

3. The provisions of this chapter and the term "public utility" apply to all railroads, express companies, car companies and all associations of persons, whether or not incorporated, that do any business as a common carrier upon or over any line of railroad within this state.

Sec. 10. NRS 704.040 is hereby amended to read as follows:

704.040 1. Every public utility shall furnish reasonably adequate service and facilities, and the charges made for any service rendered or to be rendered, or for any service in connection therewith or incidental thereto, must be just and reasonable.

2. Every unjust and unreasonable charge for service of a public utility is unlawful.

3. The Commission may exempt, to the extent it deems reasonable, services related to telecommunication or public utilities which provide telecommunication services from any or all of the provisions of this chapter, upon a determination after hearing that the services are competitive or discretionary and that regulation thereof is unnecessary. For the purposes of this subsection, basic local exchange service and access services provided to interexchange carriers are not discretionary.

4. The Commission shall adopt regulations necessary to establish ~~an alternative~~ a plan of *alternative* regulation ~~for~~ for a public utility that provides telecommunication services. The ~~alternative~~ plan of *alternative regulation* may include, but is not limited to, provisions that:

(a) Allow adjustment of the rates charged by a public utility that provides telecommunication services during the period in which the utility elects the ~~alternative~~ plan of *alternative* regulation.

(b) Provide for flexibility of pricing for discretionary services and services that are competitive.

(c) Specify the provisions of this chapter and chapter 707 of NRS that do not apply to a public utility that elects to be regulated under the ~~alternative plan~~ plan of *alternative regulation*.

(d) *Except as otherwise provided in this paragraph and NRS 704.68952, if the public utility is an incumbent local exchange carrier, allow the incumbent local exchange carrier to select the duration of the*

1 *period in which the incumbent local exchange carrier is to be regulated*
2 *under the plan of alternative regulation. The incumbent local exchange*
3 *carrier may not select a period that is less than 3 years or more than 5*
4 *years. The provisions of this paragraph do not apply to a plan of*
5 *alternative regulation of an incumbent local exchange carrier regulated*
6 *under a plan of alternative regulation that was approved by the*
7 *Commission before the effective date of this act.*

8 5. A public utility that elects to be regulated under ~~[the alternative]~~ a
9 plan of alternative regulation established pursuant to subsection 4 is not
10 subject to the remaining provisions of this chapter or chapter 707 of NRS
11 to the extent specified pursuant to paragraph (c) of subsection 4.

12 6. All providers of telecommunication services which offer the same
13 or similar service must be subject to fair and impartial regulation, to
14 promote adequate, economical and efficient service.

15 7. The Commission may provide for the levy and collection of an
16 assessment, in an amount determined by the Commission, from a public
17 utility that provides telecommunication services in order to maintain the
18 availability of telephone service. Assessments levied pursuant to this
19 subsection must be maintained in a separate fund established by the
20 Commission. The Commission shall contract with an independent
21 administrator to administer the fund pursuant to open competitive bidding
22 procedures established by the Commission. The independent administrator
23 shall collect the assessments levied and distribute them from the fund
24 pursuant to a plan which has been approved by the Commission. Money in
25 the fund must be used for the sole purpose of maintaining the availability
26 of telephone service.

27 8. ~~[For the purposes of]~~ As used in this section ~~[- "interexchange"]~~ :

28 (a) "Incumbent local exchange carrier" has the meaning ascribed to
29 it in NRS 704.68932.

30 (b) "Interexchange carrier" means any person providing intrastate
31 telecommunications service for a fee between two or more exchanges.

32 Sec. 11. NRS 704.100 is hereby amended to read as follows:

33 704.100 Except as otherwise provided in NRS 704.075 and
34 704.68904 to 704.68984, inclusive, and sections 2 to 7, inclusive, of this
35 act or as may otherwise be provided by the Commission pursuant to NRS
36 704.095 or 704.097 ~~[-]~~ or pursuant to the regulations adopted by the
37 Commission in accordance with subsection 4 of NRS 704.040:

38 1. A public utility shall not make changes in any schedule, unless the
39 public utility:

40 (a) Files with the Commission an application to make the proposed
41 changes and the Commission approves the proposed changes pursuant to
42 NRS 704.110; or

43 (b) Files the proposed changes with the Commission using a letter of
44 advice in accordance with the provisions of subsection 4.

2. A public utility shall post copies of all proposed schedules and all new or amended schedules in the same offices and in substantially the same form, manner and places as required by NRS 704.070 for the posting of copies of schedules that are currently in force.

3. A public utility may not set forth as justification for a rate increase any items of expense or rate base that previously have been considered and disallowed by the Commission, unless those items are clearly identified in the application and new facts or considerations of policy for each item are advanced in the application to justify a reversal of the prior decision of the Commission.

4. Except as otherwise provided in subsection 5, if the proposed change in any schedule does not change any rate or will result in an increase in annual gross operating revenue, as certified by the public utility, in an amount that does not exceed \$2,500:

(a) The public utility may file the proposed change with the Commission using a letter of advice in lieu of filing an application; and

(b) The Commission shall determine whether it should dispense with a hearing regarding the proposed change.

5. If the applicant is a public utility furnishing telephone service and the proposed change in any schedule will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that does not exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less, the Commission shall determine whether it should dispense with a hearing regarding the proposed change.

6. In making the determination pursuant to subsection 4 or 5, the Commission shall first consider all timely written protests, any presentation that the regulatory operations staff of the Commission may desire to present, the application of the public utility and any other matters deemed relevant by the Commission.

Sec. 12. NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 and 704.68904 to 704.68984, inclusive, and sections 2 to 7, inclusive, of this act or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097 ~~[-]~~ or pursuant to the regulations adopted by the Commission in accordance with subsection 4 of NRS 704.040:

1. If a public utility files with the Commission an application to make changes in any schedule, including, without limitation, changes that will result in a discontinuance, modification or restriction of service, the Commission shall investigate the propriety of the proposed changes to determine whether to approve or disapprove the proposed changes. If an electric utility files such an application and the application is a general rate application or an application to clear its deferred accounts, the Consumer's Advocate shall be deemed a party of record.

2. Except as otherwise provided in ~~subsection 3,~~ subsections 3 and 11, if a public utility files with the Commission an application to make

1 changes in any schedule, not later than 180 days after the date on which
2 the application is filed, the Commission shall issue a written order
3 approving or disapproving, in whole or in part, the proposed changes.

4 3. If a public utility files with the Commission a general rate
5 application, the public utility shall submit with its application a statement
6 showing the recorded results of revenues, expenses, investments and costs
7 of capital for its most recent 12 months for which data were available
8 when the application was prepared. In determining whether to approve or
9 disapprove any increased rates, the Commission shall consider evidence in
10 support of the increased rates based upon actual recorded results of
11 operations for the same 12 months, adjusted for increased revenues, any
12 increased investment in facilities, increased expenses for depreciation,
13 certain other operating expenses as approved by the Commission and
14 changes in the costs of securities which are known and are measurable
15 with reasonable accuracy at the time of filing and which will become
16 effective within 6 months after the last month of those 12 months, but
17 the public utility shall not place into effect any increased rates until the
18 changes have been experienced and certified by the public utility to the
19 Commission and the Commission has approved the increased rates. The
20 Commission shall also consider evidence supporting expenses for
21 depreciation, calculated on an annual basis, applicable to major
22 components of the public utility's plant placed into service during the
23 recorded test period or the period for certification as set forth in the
24 application. Adjustments to revenues, operating expenses and costs of
25 securities must be calculated on an annual basis. Within 90 days after the
26 date on which the certification required by this subsection is filed with the
27 Commission, or within 180 days after the date on which the general rate
28 application is filed with the Commission, whichever time is longer, the
29 Commission shall make such order in reference to the increased rates as is
30 required by this chapter. An electric utility shall file a general rate
31 application pursuant to this subsection at least once every 24 months.

32 4. If a public utility files with the Commission an application to make
33 changes in any schedule and the Commission does not issue a final written
34 order regarding the proposed changes within the time required by this
35 section, the proposed changes shall be deemed to be approved by the
36 Commission.

37 5. If a public utility files with the Commission a general rate
38 application, the public utility shall not file with the Commission another
39 general rate application until all pending general rate applications filed by
40 that public utility have been decided by the Commission unless, after
41 application and hearing, the Commission determines that a substantial
42 financial emergency would exist if the public utility is not permitted to file
43 another general rate application sooner. The provisions of this subsection
44 do not prohibit the public utility from filing with the Commission, while a
45 general rate application is pending, an application to recover the increased

1 cost of purchased fuel, purchased power, or natural gas purchased for
2 resale pursuant to subsection 6 or an application to clear its deferred
3 accounts pursuant to subsection 7, if the public utility is otherwise
4 authorized by those provisions to file such an application.

5 6. A public utility may file an application to recover the increased
6 cost of purchased fuel, purchased power, or natural gas purchased for
7 resale once every 30 days. The provisions of this subsection do not apply
8 to an electric utility using deferred accounting pursuant to NRS 704.187.

9 7. Except as otherwise provided in subsection 8 and subsection 4 of
10 NRS 704.100, if an electric utility using deferred accounting pursuant to
11 NRS 704.187 files an application to clear its deferred accounts and to
12 change one or more of its rates based upon changes in the costs for
13 purchased fuel or purchased power, the Commission, after a public hearing
14 and by an appropriate order:

15 (a) Shall allow the electric utility to clear its deferred accounts by
16 refunding any credit balance or recovering any debit balance over a period
17 not to exceed 3 years, as determined by the Commission.

18 (b) Shall not allow the electric utility to recover any debit balance, or
19 portion thereof, in an amount that would result in a rate of return during
20 the period of recovery that exceeds the rate of return authorized by the
21 Commission in the most recently completed rate proceeding for the electric
22 utility.

23 8. Before allowing an electric utility to clear its deferred accounts
24 pursuant to subsection 7, the Commission shall determine whether the
25 costs for purchased fuel and purchased power that the electric utility
26 recorded in its deferred accounts are recoverable and whether the revenues
27 that the electric utility collected from customers in this state for purchased
28 fuel and purchased power are properly recorded and credited in its deferred
29 accounts. The Commission shall not allow the electric utility to recover
30 any costs for purchased fuel and purchased power that were the result of
31 any practice or transaction that was undertaken, managed or performed
32 imprudently by the electric utility.

33 9. If an electric utility files an application to clear its deferred
34 accounts pursuant to subsection 7 while a general rate application is
35 pending, the electric utility shall:

36 (a) Submit with its application to clear its deferred accounts
37 information relating to the cost of service and rate design; and

38 (b) Supplement its general rate application with the same information,
39 if such information was not submitted with the general rate application.

40 10. A utility facility identified in a 3-year plan submitted pursuant to
41 NRS 704.741 and accepted by the Commission for acquisition or
42 construction pursuant to NRS 704.751 and the regulations adopted
43 pursuant thereto shall be deemed to be a prudent investment. The utility
44 may recover all just and reasonable costs of planning and constructing
45 such a facility.

1 11. A PAR carrier may, in accordance with this section and NRS
2 704.100, file with the Commission a request to approve or change any
3 schedule to provide volume or duration discounts to rates for
4 telecommunication service for an offering made to all or any class of
5 business customers. The Commission may conduct a hearing relating to
6 the request, which must occur within 45 days after the date the request is
7 filed with the Commission. The request and schedule shall be deemed
8 approved if the request and schedule are not disapproved by the
9 Commission within 60 days after the date the Commission receives the
10 request.

11 ~~12. For the purpose of determining the rates of a public utility that~~
12 ~~provide telecommunication services under a general rate application filed~~
13 ~~pursuant to section 3, the Commission shall consider any revenue~~
14 ~~expense that the public utility derives from any service that is~~
15 ~~identified as non-regulated in the cost allocation method of the public~~
16 ~~utility filed with the Federal Communications Commission pursuant to~~
17 ~~C.F.R. § 61.103.~~

18 ~~12.~~ As used in this section [“electric”]:

19 (a) “Electric utility” has the meaning ascribed to it in NRS 704.187.

20 (b) “PAR carrier” has the meaning ascribed to it in section 4 of this
21 act.

22 Sec. 13. NRS 704.68904 is hereby amended to read as follows:

23 704.68904 As used in NRS 704.68904 to 704.68984, inclusive, and
24 sections 2 to 7, inclusive, of this act, unless the context otherwise requires,
25 the words and terms defined in NRS 704.68908 to 704.68944, inclusive,
26 and sections 2 to 6, inclusive, of this act, have the meanings ascribed to
27 them in those sections.

28 Sec. 14. NRS 704.68908 is hereby amended to read as follows:

29 704.68908 “Affected person” means:

30 1. A public utility affected by an action of ~~[an electing]~~ a PAR carrier
31 or an action of the Commission relating to ~~[an electing]~~ a PAR carrier;

32 2. A person whose utility service or rates are affected by an action of
33 ~~[an electing]~~ a PAR carrier or an action of the Commission relating to ~~[an~~
34 ~~electing]~~ a PAR carrier;

35 3. A competitive supplier; or

36 4. The Bureau of Consumer Protection in the Office of the Attorney
37 General.

38 Sec. 15. NRS 704.68912 is hereby amended to read as follows:

39 704.68912 “Basic network service” means the provision of any of the
40 following services, unless the ~~[service has been]~~ Commission has
41 reclassified the service as a competitive ~~[.]~~ service, a deregulated service,
42 a discretionary service or an other essential service ~~[by the Commission]~~
43 pursuant to NRS 704.6896:

44 1. Farmer line service;

45 2. Flat rate service for residential lines;

3. Measured rate service for residential lines;
4. Flat rate service for residential trunk lines;
5. Flat rate service for business lines;
6. Measured rate service for business lines;
7. Flat rate service for business trunk lines;
8. Measured rate service for business trunk lines;
9. Suburban service access lines;
10. Toll station service access lines;
11. Universal lifeline service access lines;
12. Access to emergency 911 service; and
13. The first single-line directory listing.

Sec. 16. NRS 704.6892 is hereby amended to read as follows:

704.6892 "Competitive supplier" means a person who:

1. Is a competitor of ~~{an electing}~~ a PAR carrier with respect to a service performed by the ~~{electing}~~ PAR carrier; or
2. Wants to enter into competition with ~~{an electing}~~ a PAR carrier.

Sec. 17. NRS 704.68924 is hereby amended to read as follows:

704.68924 "Discretionary service" means any telecommunication service which is not otherwise classified as a basic network service, a competitive service, a *deregulated service* or ~~{any}~~ an other essential service, or which is reclassified as a discretionary service pursuant to NRS 704.6896.

Sec. 18. NRS 704.68928 is hereby amended to read as follows:

704.68928 "Electing PAR carrier" means ~~{an incumbent local exchange carrier regulated under an alternative plan of regulation pursuant to NRS 704.040 that has elected also to be regulated pursuant to NRS 704.68904 to 704.68984, inclusive, by filing with the Commission a statement}~~ a PAR carrier which:

1. *Makes an election to become an electing PAR carrier* pursuant to NRS 704.68948 ~~{-}~~; and
2. *Is regulated in the manner described in that section.*

Sec. 19. NRS 704.68948 is hereby amended to read as follows:

704.68948 ~~{An incumbent local exchange carrier that is regulated under an alternative plan of regulation pursuant to NRS 704.040 may elect also to be}~~

1. *A PAR carrier may make an election to become an electing PAR carrier that is regulated pursuant to NRS 704.68952, 704.68956 and 704.6898. Such regulation is in addition to any other regulation that otherwise applies to the PAR carrier pursuant to NRS 704.68904 to 704.68984, inclusive, {by filing} and sections 2 to 7, inclusive, of this act.*

2. *To make an election pursuant to this section, the PAR carrier must file with the Commission a written statement of its election to {be so regulated.} become an electing PAR carrier. The written statement must:*

- (a) *Identify the PAR carrier; and*
- (b) *Include the date that its election becomes effective.*

1 **Sec. 20.** NRS 704.68952 is hereby amended to read as follows:

2 704.68952 1. ~~{Aa}~~ *Except as otherwise provided in this section, if*
3 *a PAR carrier makes an election to become an electing PAR carrier*
4 *pursuant to NRS 704.68948, on and after the date that the election*
5 *becomes effective:*

6 (a) *The electing PAR carrier is not subject to any review of earnings,*
7 *monitoring of the rate base, or any other regulation by the Commission*
8 *relating to the net income or rate of return of the electing PAR carrier* ~~{~~
9 ~~unless the electing carrier files with the Commission a request to:~~

10 ~~—(a) Terminate its participation in the alternative plan of regulation~~
11 ~~pursuant to NRS 704.040; or~~

12 ~~—(b) Continue its participation in the alternative plan of regulation~~
13 ~~pursuant to NRS 704.040.~~

14 ~~—2. Except as otherwise provided in subsection 1, the~~ ;

15 (b) *The Commission shall not consider the rate of return, rate base or*
16 *any other earnings of the electing PAR carrier in connection with any*
17 *change in rates* ~~{~~

18 ~~—3. Except for an electing carrier that files a request with the~~
19 ~~Commission pursuant to subsection 1, the~~ ;

20 (c) *The Commission shall not decrease the rate of a basic network*
21 *service provided by the electing PAR carrier unless the electing PAR*
22 *carrier agrees to the decrease in the rate* ~~{~~

23 ~~—4. Except for a telecommunication service reclassified pursuant to~~
24 ~~NRS 704.6896, or except where an electing carrier elects to continue~~
25 ~~participation in an alternative plan of regulation pursuant to paragraph (b)~~
26 ~~of subsection 1, an~~ ; and

27 (d) *The electing PAR carrier shall not, during the term of its plan of*
28 *alternative regulation, increase any rate that the electing PAR carrier*
29 *charges for a basic network* ~~{services.~~

30 ~~—5.} service, other than the rate for a telecommunication service that~~
31 ~~is:~~

32 (1) *Reclassified pursuant to NRS 704.6896; or*

33 (2) *Offered by the electing PAR carrier pursuant to NRS*
34 *704.68964, 704.68968 or 704.68972.*

35 2. *An electing PAR carrier may terminate its plan of alternative*
36 *regulation at any time by filing with the Commission a notice of its*
37 *intention to terminate the plan. The termination is effective on the date*
38 *the electing PAR carrier specifies in the notice.*

39 3. *If an electing PAR carrier terminates its plan of alternative*
40 *regulation pursuant to subsection 2, the electing PAR carrier shall file*
41 *with the Commission a general rate application pursuant to subsection 3*
42 *of NRS 704.110 not later than 180 days after the date that the*
43 *termination of its plan of alternative regulation becomes effective.*

44 4. *If an electing PAR carrier does not terminate its plan of*
45 *alternative regulation pursuant to subsection 2, the plan terminates at*

1 the end of the first 5-year period after the date the plan becomes effective
2 and at the end of each successive 5-year period after that date unless:

3 (a) Not later than 180 days before the end of the first 5-year period
4 after the date the plan becomes effective and at the end of each
5 successive 5-year period after that date, the electing PAR carrier files
6 with the Commission a written request to continue its participation in the
7 plan of alternative regulation for another 5-year period; and

8 (b) The Commission grants the written request of the electing PAR
9 carrier to continue its participation in the plan of alternative regulation
10 for another 5-year period in accordance with the provisions of this
11 section.

12 5. If an electing PAR carrier files a written request pursuant to
13 subsection 4, the written request must be accompanied by a written
14 report prepared in a form prescribed by the Commission. The written
15 report must:

16 (a) Contain a summary of the operations of the electing PAR carrier
17 for the period covering the immediately preceding 5 fiscal years; and

18 (b) Include, but is not limited to, the rate of return and earnings of
19 the electing PAR carrier for the period specified in paragraph (a), other
20 than the rate of return and earnings obtained from deregulated services.

21 6. Not later than 180 days after the date that an electing PAR
22 carrier files a written request pursuant to subsection 4, the Commission
23 shall conduct and complete a proceeding to review the written request
24 and report. The Commission shall not allow any person to be a party to
25 the proceeding other than the electing PAR carrier, the regulatory
26 operations staff of the Commission and the staff of the Bureau of
27 Consumer Protection in the Office of the Attorney General.

28 7. In the proceeding, the Commission shall:

29 (a) Determine whether the existing rates of the electing PAR carrier
30 for basic network services are just and reasonable pursuant to subsection
31 1 of NRS 704.040; and

32 (b) Based upon that determination, issue an order which:

33 (1) Grants the written request of the electing PAR carrier and
34 authorizes the electing PAR carrier to participate in the plan of
35 alternative regulation for another 5 years; or

36 (2) Denies the written request of the electing PAR carrier and
37 directs the electing PAR carrier to file with the Commission a general
38 rate application pursuant to subsection 3 of NRS 704.110 not later than
39 180 days after the date the Commission issues the order.

40 8. Except for universal service support for lifeline or link-up services
41 provided pursuant to 47 U.S.C. § 214 or as otherwise determined by the
42 Commission, an electing PAR carrier is not eligible to receive money from
43 the fund created pursuant to subsection 7 of NRS 704.040.

44 9. For the purposes of this section:

1 (a) *The plan of alternative regulation for an electing PAR carrier*
2 *shall be deemed to have a term of 5 years.*

3 (b) *If a PAR carrier is operating as an electing PAR carrier on*
4 *July 1, 2003, the first 5-year term for its plan of alternative regulation*
5 *shall be deemed to begin on July 1, 2003.*

6 (c) *If a PAR carrier makes an election to become an electing PAR*
7 *carrier after July 1, 2003, the first 5-year term for its plan of alternative*
8 *regulation shall be deemed to begin on the date that its election becomes*
9 *effective.*

10 **Sec. 21.** NRS 704.68956 is hereby amended to read as follows:

11 704.68956 ~~{Nothing in}~~ *The provisions of* NRS 704.68904 to
12 704.68984, inclusive, ~~{authorizes}~~ *and sections 2 to 7, inclusive, of this*
13 *act do not authorize* an electing PAR carrier, without the approval of the
14 Commission, to discontinue or otherwise change the terms and conditions
15 relating to the provision of the basic network services identified in
16 subsections 1 to 4, inclusive, of NRS 704.68912, as set forth in the tariffs
17 of the electing PAR carrier that are in effect on October 1, 1999.

18 **Sec. 22.** NRS 704.6896 is hereby amended to read as follows:

19 704.6896 1. The Commission may, at any time, upon its own
20 motion or that of any person, reclassify a basic network service, except
21 access to emergency 911 service.

22 2. The Commission shall establish by regulation criteria for
23 determining whether a service should be reclassified, except that the
24 Commission shall not adopt criteria for determining whether a service
25 should be reclassified that would deny a request to reclassify a basic
26 network service to another classification of service within an exchange
27 where a competitive supplier operates and provides that service, on the
28 basis that there is not a competitive supplier of that service in any other
29 portion of the State.

30 3. *If the Commission receives a written request for reclassification*
31 *from a PAR carrier, the Commission shall act upon the request not later*
32 *than 120 days after the date the Commission receives the request.*

33 **Sec. 23.** NRS 704.68964 is hereby amended to read as follows:

34 704.68964 1. ~~{An electing}~~ A PAR carrier may, pursuant to this
35 section and in accordance with NRS 704.68976, exercise flexibility in the
36 pricing, *the terms or both the pricing and terms of:*

37 (a) ~~{Competitive services and discretionary services.}~~ *Any competitive*
38 *service or discretionary service.* The Commission shall not specify a
39 maximum rate for any competitive ~~{services}~~ *service* or discretionary
40 ~~{services of the electing carrier. The electing carrier shall, with regard to~~
41 ~~any competitive or discretionary service that it provides, set the price of~~
42 ~~that service above the price floor of the service.~~

43 ~~—(b) A} service provided by the PAR carrier.~~

44 (b) Any package of services, which may include basic network
45 services, competitive services, discretionary services, ~~{and}~~ other essential

1 services ~~{-}~~ and services and products that are not subject to the
2 jurisdiction of the Commission. The Commission shall not specify a
3 maximum rate for a package of services provided by the PAR carrier.

4 (c) Any tariffed service, if the PAR carrier needs to exercise
5 flexibility in the pricing, the terms or both the pricing and terms of the
6 tariffed service in a contract for service to an individual customer, to
7 respond to competition by one or more competitive suppliers in the
8 market for telecommunication service for business customers. The
9 flexibility exercised by the PAR carrier pursuant to this paragraph:

10 (1) May include, but is not limited to, using volume or term
11 discounts, and modifications to tariffed terms and conditions; and

12 (2) May not be used to provide volume or duration discounts to
13 rates or modifications to tariffed terms and conditions for
14 telecommunication service for an offering made to all or any class of
15 business customers.

16 2. Except as otherwise provided in this subsection, ~~{an electing}~~ a
17 PAR carrier may, upon ~~{30 days}~~ ~~40 days~~ 20 days notice to the
18 Commission in writing, exercise flexibility in the pricing, ~~the terms or~~
19 ~~both the pricing and terms of {its}~~ any service or package of services that
20 may be subject to such flexibility pursuant to subsection 1, and the PAR
21 carrier is exempt, with respect to the pricing of ~~{its}~~ each such service or
22 package of services, from the provisions of NRS 704.100 and 704.110 and
23 the regulations of the Commission relating thereto. The notice must
24 include a description in reasonable detail of:

25 (a) The characteristics of ~~{the}~~ each service or package of services that
26 will be subject to such flexibility; ~~{in pricing}~~

27 (b) The terms and conditions applicable to ~~{the}~~ each service or
28 package of services;

29 (c) The nature of any limitations on the duration or geographical
30 availability of ~~{the}~~ each service or package of services;

31 (d) The price or prices of ~~{the services or packages}~~ each service or
32 package of services; ~~{and}~~

33 (e) A certificate which provides that ~~{the electing}~~ :

34 (1) The PAR carrier has prepared a cost study of the price floor to
35 support the price or prices ~~{for}~~ of each service that will be subject to such
36 flexibility or each service included in the package of services that will be
37 subject to such flexibility; and ~~{that on}~~

38 (2) On and after the date on which the notice is filed with the
39 Commission, any affected person may, upon request, inspect and copy the
40 cost study, subject to reasonable terms and conditions of any applicable
41 confidentiality and nondisclosure agreement relating to the service or
42 package of services ~~{-}~~; and

43 (f) A form of notice that will be posted by the Commission.

44 The notice requirements of this subsection do not apply to ~~{an electing}~~ a
45 PAR carrier with respect to the pricing or terms of any competitive service

1 or any package of services ~~{or for packages}~~ comprised exclusively of
2 competitive services.

3 3. *The price or prices of each service that is subject to flexibility*
4 *pursuant to this section must not be lower than the price floor for that*
5 *service. The price ~~{for a}~~ or prices of each package of services that is*
6 *subject to flexibility pursuant to this section must not be lower than the*
7 *lesser of:*

8 (a) The sum of the price floors for each ~~{of the services contained}~~
9 *service included* in the package; or

10 (b) The sum of the prices of the basic network services, as set forth in
11 the tariffs of the ~~{electing}~~ PAR carrier, and the price floors for each of the
12 other services ~~{contained}~~ included in the package.

13 4. ~~{The Commission shall not specify a maximum rate for a package~~
14 ~~of services.~~

15 ~~5. Each of the services}~~ *Each service* included in a package ~~{pursuant~~
16 ~~to paragraph (b) of subsection 1}~~ *of services that is subject to flexibility*
17 *pursuant to this section must be made available on an individual basis.*

18 ~~{6. An electing}~~

19 5. A PAR carrier must provide ~~{30 days'}~~ ~~10 days'~~ *20 days'* notice to
20 the Commission in writing before the ~~{electing}~~ PAR carrier may
21 implement any amendment or change to ~~{an existing service noticed}~~ *a*
22 *service or package of services which is subject to flexibility pursuant to*
23 *this section and for which the PAR carrier had previously provided*
24 *notice to the Commission pursuant to subsection 2.*

25 6. *Notwithstanding any other provision of law, if a PAR carrier*
26 *charges a customer a fixed price or amount for a package of services*
27 *that is subject to flexibility pursuant to this section, the PAR carrier, in*
28 *any bill or statement for the package of services, is permitted to specify*
29 *only the fixed price or amount for the package of services and is not*
30 *required to:*

31 (a) *Identify each separate service or component included in the*
32 *package of services; or*

33 (b) *Specify the unit price or amount charged for each separate*
34 *service or component included in the package of services.*

35 **Sec. 24.** NRS 704.68968 is hereby amended to read as follows:

36 704.68968 ~~{An electing}~~ A PAR carrier may establish promotional
37 price reductions for services upon a 1-day notice to the Commission. The
38 promotional price reduction for a service may be offered for not more than
39 90 days during any 12 consecutive months and must be given in all
40 geographic areas served by the ~~{electing}~~ PAR carrier, where facilities
41 permit, on a nondiscriminatory basis during the 12-month period.

42 **Sec. 25.** NRS 704.68972 is hereby amended to read as follows:

43 704.68972 1. ~~{An electing}~~ A PAR carrier may introduce new
44 services upon ~~{30 days'}~~ *10 days'* notice to the Commission in writing.
45 The notice must include a description in reasonable detail of:

- (a) The characteristics of each new service;
- (b) The terms and conditions applicable to each new service;
- (c) The nature of any limitations on the duration or geographical availability of each new service;
- (d) The price or prices of each new service; and
- (e) A certificate ~~that~~ *which* provides that ~~the electing~~ :

(1) *The PAR* carrier has prepared a cost study of the price floor to support the price or prices ~~for~~ *of* each new service ; and ~~that on~~

(2) *On* and after the date on which the notice is filed with the Commission, any affected person may, upon request, inspect and copy the cost study, subject to reasonable terms and conditions of any applicable confidentiality and nondisclosure agreement.

2. Each new service is subject to the conditions set forth in NRS 704.68964.

3. Each new service is exempt from the provisions of NRS 704.100 and 704.110 and the regulations of the Commission relating thereto.

4. Unless otherwise classified by the Commission as a ~~competitive~~ *deregulated* service pursuant to its regulations, a new service must be classified as a ~~discretionary~~ *competitive* service for which the Commission shall not specify a maximum rate. The ~~electing~~ *PAR* carrier shall set the price of the new service above the price floor ~~of the~~ *for that* service.

5. As used in this section, a "new service" means a telecommunication service:

(a) That provides a function, feature or capability which is materially different from any service or services previously offered by the carrier; or

(b) Combines two or more previously provided new services.

Sec. 26. NRS 704.68976 is hereby amended to read as follows:

704.68976 The rates charged by ~~an electing~~ *a PAR* carrier for services, except for competitive services, must be geographically averaged throughout the service territory in which the ~~electing~~ *PAR* carrier is the provider of last resort, as determined pursuant to regulations adopted by the Commission, or within such other smaller geographic area as the Commission deems appropriate to balance the interests of all customers and providers.

Sec. 27. NRS 704.6898 is hereby amended to read as follows:

704.6898 The intrastate access prices charged by an electing *PAR* carrier must not exceed the interstate access prices charged by the electing *PAR* carrier as authorized by the Federal Communications Commission for corresponding elements, and any resulting reductions must be offset on a revenue-neutral basis with adjustments to other essential retail services subject to regulation by the Commission.

1 **Sec. 28.** NRS 704.68984 is hereby amended to read as follows:

2 704.68984 The provisions of section 8 of this act and NRS
3 704.68904 to 704.68984, inclusive, and sections 2 to 7, inclusive, of this
4 act do not:

5 1. Apply to the Commission in connection with any actions or
6 decisions required or permitted by the Telecommunications Act of 1996,
7 Public Law 104-104, 110 Stat. 56-161; or

8 2. Limit or modify ~~the~~ [the] :

9 (a) The duties of [an electing] a PAR carrier to a competitive supplier
10 regarding the provision of network interconnection, unbundled network
11 elements and resold services under the provisions of the
12 Telecommunications Act of 1996, Public Law 104-104, 110 Stat. ~~56-161~~
13 ~~56-161~~ 1.1; or

14 (b) The authority of the Commission to act pursuant to NRS 704.281
15 and 704.282.

16 **Sec. 29.** This act becomes effective upon passage and approval.

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