

Amendment No. 701

Senate Amendment to Assembly Bill No. 518 Second Reprint (BDR 58-1128)

Proposed by: Senate Committee on Commerce and Labor**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

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) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

KCP



Date: 5/14/2007

A.B. No. 518—Revises provisions governing the regulation of telecommunication service. (BDR 58-1128)



ASSEMBLY BILL NO. 518—COMMITTEE ON COMMERCE AND

MARCH 23, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing the regulation of telecommunication service. (BDR 58-1128)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

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

AN ACT relating to telecommunication service; revising provisions governing the regulation of certain incumbent local exchange carriers; revising provisions governing the regulation of competitive suppliers of telecommunication service; allowing for greater competition among various telecommunication providers; repealing provisions governing the plan of alternative regulation and PAR carriers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Public Utilities Commission of Nevada to regulate public utilities that provide telecommunication service to the public. With regard to local telephone service, each service territory has an incumbent local exchange carrier that has an obligation to serve the customers within that particular territory. If no other telecommunication provider is authorized to serve the customers in that particular territory, the incumbent local exchange carrier essentially has a monopoly with regard to local telephone service. (Chapter 704 of NRS)

To foster competition in the local telephone market, existing law allows the Commission to establish a plan of alternative regulation (PAR), whereby an incumbent local exchange carrier may elect to become a PAR carrier under a regulatory scheme which allows flexibility of pricing for certain competitive, discretionary and deregulated services. Under the PAR regulatory scheme, the PAR carrier is allowed to sell such services under less regulated conditions, and other telecommunication providers, known as competitive suppliers, have the opportunity to compete with the PAR carrier in the local telephone market. However, as the incumbent local exchange carrier, the PAR carrier generally retains its obligations as the provider of last resort of basic telephone service and must ensure that such telephone service remains available at affordable rates to the customers within its service territory. (NRS 704.040, 704.68904-704.68984)

This bill repeals the PAR regulatory scheme and replaces it with a regulatory scheme that is intended to promote more competition in the local telephone market. Under this bill, all telecommunication providers, with the exception of certain small-scale providers of last resort, are classified as competitive suppliers. This bill reduces the regulatory authority of the Commission over such competitive suppliers and provides for greater flexibility of pricing with regard to most components of local telephone service, including basic telephone service.

This bill also requires the Commission to adopt regulations establishing the terms, conditions and procedures under which: (1) an incumbent local exchange carrier may be

excused from its obligations as the provider of last resort; and (2) those obligations may be reinstated. The regulations must also establish the manner of giving prior notice and the terms of any bond necessary to protect consumers and ensure continuity of basic telephone service when a provider other than an incumbent local exchange carrier intends to terminate or discontinue such service.

Finally, to maintain the availability of telephone service to rural, insular and high-cost areas, this bill requires the Commission to continue to levy and collect a uniform and equitable assessment from all telecommunication providers. The proceeds of the assessment must be used to reimburse providers of last resort so that they are able to provide telephone service to rural, insular and high-cost areas.

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

Section 1. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 30, inclusive, of this act.

Sec. 2. *“Basic network service” means the provision of stand-alone telephone service furnished to a residential customer through the customer’s primary residential line as the only service that:*

1. Is not:

- (a) Part of a package of services;*
- (b) Sold in a promotion;*
- (c) Purchased pursuant to a contract; or*
- (d) Otherwise offered at a discounted price; and*

2. Provides to the customer:

(a) Voice-grade access to the public switched telephone network with a minimum bandwidth of 300 to 3,000 hertz;

(b) Dual tone multifrequency signaling and single party service;

(c) Access to:

- (1) Operator services;*
- (2) Telephone relay services;*
- (3) Local directory assistance;*
- (4) Interexchange service; and*
- (5) Emergency 911 service.*

(d) The first single-line directory listing; and

(e) Universal lifeline service for those eligible for such service.

Sec. 3. *“Business line service” means flat or measured rate service for business lines or business trunk lines.*

Sec. 4. *1. “Competitive supplier” means a telecommunication provider that is subject to the provisions of sections 18 to 30, inclusive, of this act.*

2. The term does not include a small-scale provider of last resort unless the provider is authorized by the Commission pursuant to section 21 of this act to be regulated as a competitive supplier.

Sec. 5. *“Fund to maintain the availability of telephone service” means the fund established by the Commission pursuant to NRS 704.040 to maintain the availability of telephone service.*

Sec. 6. *“Incumbent local exchange carrier” has the meaning ascribed to it in 47 U.S.C. § 251(h)(1), as that section existed on October 1, 1999, and includes a local exchange carrier that is treated as an incumbent local exchange carrier pursuant to that section.*

1 Sec. 7. *“Interexchange carrier” means any person providing either or both*
2 *intrastate and interstate telecommunication service for a fee between two or more*
3 *exchanges.*

4 Sec. 8. *“Local exchange carrier” has the meaning ascribed to it in 47*
5 *U.S.C. § 153(26), as that section existed on December 1, 2006.*

6 Sec. 9. *“Provider of last resort” means the telecommunication provider*
7 *designated by the regulations of the Commission to provide basic network service*
8 *and business line service to any person requesting and eligible to receive*
9 *telephone service in a particular service territory.*

10 Sec. 10. *“Small-scale provider of last resort” means an incumbent local*
11 *exchange carrier that is a provider of last resort of basic network service and*
12 *business line service to customers through less than 60,000 access lines.*

13 Sec. 11. *“Telecommunication” means the transmission, between or among*
14 *points specified by the user, of information of the user’s choosing, without*
15 *change in the form or content of the information sent and received, regardless of*
16 *the facilities, equipment or technology used.*

17 Sec. 12. *“Telecommunication provider” or “telephone company” means*
18 *any person required to obtain from the Commission a certificate of public*
19 *convenience and necessity pursuant to NRS 704.330 to provide*
20 *telecommunication service.*

21 Sec. 13. *“Telecommunication service” or “telephone service” means the*
22 *offering of telecommunication for a fee directly to the public, or such classes of*
23 *users as to be effectively available directly to the public, regardless of the*
24 *equipment, facilities or technology used.*

25 Sec. 14. 1. *The Commission shall by regulation establish a procedure for*
26 *an incumbent local exchange carrier to provide notice via the Internet of*
27 *interconnection agreements entered into with another telecommunication*
28 *provider.*

29 2. *The procedure established by the Commission pursuant to this section for*
30 *providing notice via the Internet is the exclusive method for providing such*
31 *notice, and the Commission may not require another method of notice.*

32 3. *When an incumbent local exchange carrier provides notice via the*
33 *Internet pursuant to this section, the notice must include a link to the public area*
34 *of its website where an electronic copy of the interconnection agreements may be*
35 *obtained.*

36 Sec. 15. 1. *The Commission shall adopt regulations that establish:*

37 (a) *The obligations of incumbent local exchange carriers as providers of last*
38 *resort giving due consideration to the status of the incumbent local exchange*
39 *carriers as either competitive suppliers or small-scale providers of last resort.*

40 (b) *The terms, conditions and procedures under which:*

41 (1) *An incumbent local exchange carrier may be excused from the*
42 *obligations of the provider of last resort; and*

43 (2) *The Commission may request an incumbent local exchange carrier to*
44 *reinstate the obligations of the provider of last resort.*

45 (c) *The manner of giving prior written notice of not less than 180 days before*
46 *another provider of basic network service or business line service may terminate*
47 *or discontinue such services and the terms of any bond necessary to protect*
48 *consumers and ensure continuity of such services.*

49 2. *The regulations adopted by the Commission may not allow an incumbent*
50 *local exchange carrier to be excused from the obligations of the provider of last*
51 *resort in situations where the incumbent local exchange carrier, before the*
52 *effective date of this act, made an agreement to or was specifically ordered to act*
53 *as the provider of last resort.*

1 Sec. 16. (Deleted by amendment.)

2 Sec. 17. (Deleted by amendment.)

3 Sec. 18. *1. Except as otherwise provided in this section, any*
4 *telecommunication provider operating within this State is a competitive supplier*
5 *that is subject to the provisions of sections 18 to 30, inclusive, of this act.*

6 *2. A small-scale provider of last resort is not a competitive supplier that is*
7 *subject to the provisions of sections 18 to 30, inclusive, of this act, unless the*
8 *small-scale provider of last resort is authorized by the Commission pursuant to*
9 *section 21 of this act to be regulated as a competitive supplier.*

10 Sec. 19. *The provisions of sections 18 to 30, inclusive, of this act do not:*

11 *1. Apply to the Commission in connection with any actions or decisions*
12 *required or permitted by the Telecommunications Act of 1996, Public Law 104-*
13 *104, 110 Stat. 56-161; or*

14 *2. Limit or modify:*

15 *(a) The duties of a competitive supplier that is an incumbent local exchange*
16 *carrier regarding the provision of network interconnection, unbundled network*
17 *elements and resold services under the provisions of the Telecommunications Act*
18 *of 1996, Public Law 104-104, 110 Stat. 56-161; or*

19 *(b) The authority of the Commission to act pursuant to NRS 704.6881 and*
20 *704.6882.*

21 Sec. 20. *The Commission may adopt any regulations that are necessary to*
22 *carry out the provisions of sections 18 to 30, inclusive, of this act.*

23 Sec. 20.5. *1. Each competitive supplier that is an incumbent local*
24 *exchange carrier on the effective date of this act shall:*

25 *(a) On or before October 1, 2008, prepare and submit to the Commission and*
26 *the Bureau of Consumer Protection in the Office of the Attorney General a*
27 *report regarding competition in the local markets for telecommunication service,*
28 *including, without limitation, competition from available alternative services that*
29 *serve as technological substitutes for telecommunication service. The report must*
30 *be based on information that is reasonably available from public sources and*
31 *must contain data, statistical measures and analyses for assessing:*

32 *(1) The existing number of customers of the competitive supplier, the*
33 *forms of telecommunication service provided by the competitive supplier and the*
34 *prices for such services;*

35 *(2) The number of competitors in the local markets within the service*
36 *territory of the competitive supplier for various forms of telecommunication*
37 *service, including, without limitation, wireline and wireless telecommunication*
38 *service, and any available alternative services that serve as technological*
39 *substitutes for telecommunication service, such as broadband services ~~and~~*
40 *~~video services,~~ and a comparison of the services provided by such competitors*
41 *and prices for telecommunication service and broadband service;*

42 *(3) The growth or decline, if any, in customers and primary access lines*
43 *of the competitive supplier during the preceding 5 years; and*

44 *(4) The number of persons receiving a reduction in rates for telephone*
45 *service pursuant to NRS 707.400 to 707.500, inclusive, within the service territory*
46 *of the competitive supplier, the price of such service, the consumer outreach and*
47 *informational programs used to expand participation of eligible persons in such*
48 *service, and the management, coordination and training programs implemented*
49 *by the competitive supplier to increase awareness and use of lifeline and link-up*
50 *programs.*

51 *(b) On or before October 1 of each year thereafter for a period of 4 years,*
52 *prepare and submit to the Commission and the Bureau of Consumer Protection*
53 *in the Office of the Attorney General a report that compares and evaluates any*

1 *changes in the data, prices, statistical measures and analyses set forth in the*
2 *report submitted by the competitive supplier pursuant to paragraph (a).*

3 2. *The Commission shall:*

4 (a) *On or before December 1 of each applicable year, provide to the*
5 *Legislative Commission a copy of the reports received pursuant to subsection 1;*
6 *and*

7 (b) *On or before December 1, 2010, prepare and submit to the Legislative*
8 *Commission and the Bureau of Consumer Protection in the Office of the*
9 *Attorney General a report that:*

10 (1) *Summarizes and evaluates the data, prices, statistical measures and*
11 *analyses set forth in the reports submitted by competitive suppliers pursuant to*
12 *subsection 1;*

13 (2) *Provides an assessment of market conditions and the state of*
14 *competition for telecommunication service in the various geographical areas of*
15 *this State; and*

16 (3) *Includes, without limitation:*

17 (I) *A discussion of the types of alternative services that serve as*
18 *technological substitutes for telecommunication service and the availability of*
19 *such alternative services in the various geographical areas of this State; and*

20 (II) *An assessment of the alternative services that are available for*
21 *basic network service and business line service considering inter-modal*
22 *alternatives, technological developments, market conditions and the availability*
23 *of comparable alternative services in the various geographical areas of this State.*

24 **Sec. 21.** 1. *A small-scale provider of last resort may apply to the*
25 *Commission to be regulated as a competitive supplier pursuant to sections 18 to*
26 *30, inclusive, of this act.*

27 2. *The Commission may grant the application if it finds that the public*
28 *interest will be served by allowing the small-scale provider of last resort to be*
29 *regulated as a competitive supplier.*

30 3. *If the Commission denies the application, the small-scale provider of last*
31 *resort:*

32 (a) *May not be regulated as a competitive supplier but remains subject to*
33 *regulation pursuant to this chapter as a telecommunication provider; and*

34 (b) *May not submit another application to be regulated as a competitive*
35 *supplier sooner than 1 year after the date the most recent application was denied,*
36 *unless the Commission, upon a showing of good cause or changed*
37 *circumstances, allows the provider to submit another application sooner.*

38 **Sec. 22.** 1. *A competitive supplier is not subject to any review of earnings*
39 *or monitoring of the rate base or any other regulation by the Commission*
40 *relating to the net income or rate of return of the competitive supplier, and the*
41 *Commission shall not consider the rate of return, the rate base or any other*
42 *earnings of the competitive supplier in carrying out the provisions of sections 18*
43 *to 30, inclusive, of this act.*

44 2. *On or before May 15 of each year, a competitive supplier shall file with*
45 *the Commission an annual statement of income, a balance sheet, a statement of*
46 *cash flows for the total operations of the competitive supplier and a statement of*
47 *intrastate service revenues, each prepared in accordance with generally accepted*
48 *accounting principles.*

49 3. *A competitive supplier is not required to submit any other form of*
50 *financial report or comply with any other accounting requirements, including,*
51 *without limitation, requirements relating to depreciation and affiliate*
52 *transactions, imposed upon a public utility by this chapter, chapter 703 of NRS or*
53 *the regulations of the Commission.*

1 **Sec. 23. 1. Except as otherwise provided in sections 18 to 30, inclusive, of**
2 **this act, a competitive supplier:**

3 (a) **Is exempt from the provisions of NRS 704.100 and 704.110 and the**
4 **regulations of the Commission relating thereto and from any other provision of**
5 **this chapter governing the rates, pricing, terms and conditions of any**
6 **telecommunication service; and**

7 (b) **May exercise complete flexibility in the rates, pricing, terms and**
8 **conditions of any telecommunication service.**

9 2. **The rates, pricing, terms and conditions of intrastate switched or special**
10 **access service provided by a competitive supplier that is an incumbent local**
11 **exchange carrier and the applicability of such access service to intrastate**
12 **interexchange traffic are subject to regulation by the Commission, which must be**
13 **consistent with federal law, unless the Commission deregulates intrastate**
14 **switched or special access service pursuant to section 26 of this act.**

15 3. **A competitive supplier that is an incumbent local exchange carrier shall**
16 **use a letter of advice to change any rates, pricing, terms and conditions of**
17 **intrastate switched or special access service, universal lifeline service or access to**
18 **emergency 911 service. A letter of advice submitted pursuant to this subsection**
19 **shall be deemed approved if the Commission does not otherwise act on the letter**
20 **of advice within 120 days after the date on which the letter is filed with the**
21 **Commission.**

22 **Sec. 24. 1. A competitive supplier is not required to maintain or file any**
23 **schedule or tariff with the Commission.**

24 2. **Each competitive supplier that is an incumbent local exchange carrier:**

25 (a) **Shall publish the rates, pricing, terms and conditions of basic network**
26 **service by:**

27 (1) **Posting such rates, pricing, terms and conditions electronically on a**
28 **publicly available Internet website maintained by the competitive supplier;**

29 (2) **Maintaining for inspection by the public a copy of such rates, pricing,**
30 **terms and conditions at the principal office in Nevada of the competitive supplier;**
31 **or**

32 (3) **Delivering to the customer a copy of the rates, pricing, terms and**
33 **conditions in writing with the first invoice, billing statement or other written**
34 **summary of charges for the telecommunication service provided by the**
35 **competitive supplier to the customer; and**

36 (b) **May publish the rates, pricing, terms and conditions of other**
37 **telecommunication service by:**

38 (1) **Posting such rates, pricing, terms and conditions electronically on a**
39 **publicly available Internet website maintained by the competitive supplier;**

40 (2) **Maintaining for inspection by the public a copy of such rates, pricing,**
41 **terms and conditions at the principal office in Nevada of the competitive supplier;**
42 **or**

43 (3) **Delivering to the customer a copy of the rates, pricing, terms and**
44 **conditions in writing with the first invoice, billing statement or other written**
45 **summary of charges for the telecommunication service provided by the**
46 **competitive supplier to the customer.**

47 **Sec. 25. 1. The Commission shall not decrease the rates or pricing of**
48 **basic network service provided by a competitive supplier, unless the competitive**
49 **supplier files a general rate application pursuant to paragraph (b) of subsection 2**
50 **and the Commission orders a decrease in the rates or pricing of such service in a**
51 **general rate case proceeding conducted pursuant thereto.**

52 2. **Except as otherwise provided in this section, a competitive supplier that is**
53 **an incumbent local exchange carrier shall not:**

(a) Without the approval of the Commission, discontinue basic network service or change the terms and conditions of basic network service as set forth in the tariffs of the competitive supplier that were in effect on January 1, 2007.

(b) Before January 1, 2012, increase the rates or pricing of basic network service as set forth in the tariffs of the competitive supplier that were in effect on January 1, 2007, except that notwithstanding any other provision of this chapter:

(1) On or after January 1, 2011, and before January 1, 2012, the competitive supplier may, without the approval of the Commission, increase the rates or pricing of basic network service provided by the competitive supplier but the total of all increases during that period may not result in rates or pricing of basic network service that is more than \$1 above the rates or pricing set forth in the tariffs of the competitive supplier that were in effect on January 1, 2007; and

(2) The Commission may allow the competitive supplier to increase the rates or pricing of basic network service above the amounts authorized by this subsection only if the competitive supplier files a general rate application and proves in a general rate case proceeding conducted pursuant to NRS 704.110 and 704.120 that the increase is absolutely necessary to avoid rates or prices that are confiscatory under the Constitution of the United States or the Constitution of this State. In such a general rate case proceeding, the Commission:

(I) May allow an increase in the rates or pricing of basic network service provided by the competitive supplier only in an amount that the competitive supplier proves in the general rate case proceeding is absolutely necessary to avoid an unconstitutional result and shall not authorize in the general rate case proceeding any rate, price or other relief for the competitive supplier that is not proven by the competitive supplier to be absolutely necessary to avoid an unconstitutional result; and

(II) May order a decrease in the rates or pricing of basic network service provided by the competitive supplier if the Commission determines in the general rate case proceeding that the decrease is necessary to provide customers with just and reasonable rates.

3. On or after January 1, 2012:

(a) A competitive supplier that is an incumbent local exchange carrier may exercise flexibility in the rates, pricing, terms and conditions of basic network service in the same manner permitted for other telecommunication service pursuant to section 23 of this act; and

(b) The Commission shall not:

(1) Regulate the rates, pricing, terms and conditions of basic network service provided by such a competitive supplier; or

(2) Require such a competitive supplier to maintain any schedule or tariff for basic network service.

4. A competitive supplier that is an incumbent local exchange carrier must provide reasonably detailed information concerning the rates, pricing, terms and conditions of basic network service in the manner required by section 24 of this act.

Sec. 26. 1. ~~[The Commission may not deregulate]~~ A competitive supplier shall provide access to emergency 911 service [provided by a competitive supplier] and shall not discontinue such access.

2. The Commission may, upon its own motion or the petition of any person, deregulate intrastate switched or special access service provided by a competitive supplier. Unless the Commission deregulates such access service pursuant to this subsection, the rates, pricing, terms and conditions of such access service are subject to tariff regulation by the Commission.

1 3. If the Commission receives a petition pursuant to subsection 2, the
2 Commission shall act upon the petition not later than 120 days after the date the
3 Commission receives the petition.

4 Sec. 27. 1. A competitive supplier that is a provider of last resort may use
5 an alternative technology to satisfy the obligation to provide basic network service
6 or business line service in a service territory.

7 2. Except as otherwise provided in this section, the Commission may not
8 exercise jurisdiction over an alternative technology used by a competitive supplier
9 that is a provider of last resort to satisfy the obligation to provide basic network
10 service or business line service in a service territory, including, without
11 limitation, determining the rates, pricing, terms, conditions or availability of an
12 alternative technology.

13 3. If a competitive supplier that is a provider of last resort uses an
14 alternative technology to satisfy the obligation to provide basic network service or
15 business line service in a service territory, the Commission may investigate
16 whether basic network service or business line service provided through the
17 alternative technology by the competitive supplier is functionally comparable with
18 circuit-switched wireline telephony.

19 4. If, after notice and hearing, the Commission finds any material
20 deficiency in the competitive supplier's use of the alternative technology to satisfy
21 the obligation to provide basic network service or business line service, the
22 Commission may order the competitive supplier to implement corrective action,
23 within a technically reasonable period, to cure the material deficiency in the use
24 of the alternative technology.

25 5. As used in this section, "alternative technology" means any technology,
26 facility or equipment, other than circuit-switched wireline telephony, that has the
27 capability to provide customers with service functionally comparable to basic
28 network service or business line service. The term includes, without limitation,
29 wireless or Internet technology, facilities or equipment.

30 Sec. 28. If a competitive supplier charges a customer a fixed price or
31 amount for a package of services, the competitive supplier, in any bill or
32 statement for the package of services, is permitted to specify only the fixed price
33 or amount for the package of services and is not required to:

34 1. Identify each separate service or component included in the package of
35 services; or

36 2. Specify the unit price or amount charged for each separate service or
37 component included in the package of services.

38 Sec. 29. 1. A competitive supplier that is not a provider of last resort may
39 discontinue any telecommunication service by providing written notice, not less
40 than 10 days before the date of the discontinuation, to any customer of that
41 service and the Commission.

42 2. A competitive supplier that is a provider of last resort may:

43 (a) Discontinue any telecommunication service, except basic network service,
44 by providing written notice, not less than 10 days before the date of the
45 discontinuation, to any customer of that service and the Commission.

46 (b) Apply to the Commission to discontinue basic network service to all or a
47 portion of the service territory of the competitive supplier on terms that are in the
48 public interest.

49 Sec. 30. In exercising flexibility in the rates, pricing, terms and conditions
50 of any telecommunication service, a competitive supplier that is an incumbent
51 local exchange carrier shall not engage in any anticompetitive act or practice or
52 unlawfully discriminate among similarly situated customers.

Sec. 31. NRS 704.001 is hereby amended to read as follows:

704.001 It is hereby declared to be the purpose and policy of the Legislature in enacting this chapter:

1. To confer upon the Commission the power, and to make it the duty of the Commission, to regulate public utilities to the extent of its jurisdiction;
2. To provide for fair and impartial regulation of public utilities;
3. To provide for the safe, economic, efficient, prudent and reliable operation and service of public utilities; ~~and~~
4. To balance the interests of customers and shareholders of public utilities by providing public utilities with the opportunity to earn a fair return on their investments while providing customers with just and reasonable rates ~~and~~; *and*

5. With regard to telecommunication service:

(a) To regulate competitive suppliers in a manner that allows customers to benefit from full competition regarding rates and services;

(b) To provide for basic network service to economically disadvantaged persons who are eligible for a reduction in rates for telephone service pursuant to NRS 707.400 to 707.500, inclusive; and

(c) To maintain the availability of telephone service to rural, insular and high-cost areas through:

(1) The levy and collection of a uniform and equitable assessment from all persons furnishing intrastate telecommunication service or the functional equivalent of such service through any form of telephony technology; and

(2) Payments to telecommunication providers from the fund to maintain the availability of telephone service.

Sec. 32. NRS 704.005 is hereby amended to read as follows:

704.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 704.007 to 704.030, inclusive, *and sections 2 to 13, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 33. NRS 704.020 is hereby amended to read as follows:

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

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

(b) Any ~~telephone company~~ *person, other than a provider of commercial mobile radio service*, that provides a telecommunication service to the public, but only with regard to those operations ~~of the telephone company~~ which consist of providing a telecommunication service to the public.

(c) *Any provider of commercial mobile radio service, but such providers:*

(1) Must be regulated in a manner consistent with federal law; and

(2) Must not be regulated as telecommunication providers for the purposes of this chapter.

(d) Any radio or broadcasting company or instrumentality that provides a common or contract service.

~~(e) Any company that owns cars of any kind or character, used and operated as a part of railroad trains, in or through this State. All duties required of and penalties imposed upon any railroad or any officer or agent thereof are, insofar as applicable, required of and imposed upon the owner or operator of any telephone company that provides a telecommunication service to the public, any radio or broadcasting company or instrumentality that provides a common or contract service~~ *any public utility* and any *other* company that owns cars of any kind or character, used and operated as a part of railroad trains in or through this

1 State, and their officers and agents, and the Commission may supervise and control
2 all such companies, instrumentalities and persons to the same extent as railroads.

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

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

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

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

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

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

21 **Sec. 34.** NRS 704.033 is hereby amended to read as follows:

22 704.033 1. Except as otherwise provided in subsection 6, the Commission
23 shall levy and collect an annual assessment from all public utilities, providers of
24 discretionary natural gas service and alternative sellers subject to the jurisdiction of
25 the Commission.

26 2. Except as otherwise provided in subsections 3 and 4, the annual assessment
27 must be:

28 (a) For the use of the Commission, not more than 3.50 mills; and

29 (b) For the use of the Consumer's Advocate, not more than 0.75 mills,

30 ➤ on each dollar of gross operating revenue derived from the intrastate operations
31 of such utilities, providers of discretionary natural gas service and alternative sellers
32 in the State of Nevada. The total annual assessment must be not more than 4.25
33 mills.

34 3. The levy for the use of the Consumer's Advocate must not be assessed
35 against railroads.

36 4. The minimum assessment in any 1 year must be \$100.

37 5. The gross operating revenue of the utilities must be determined for the
38 preceding calendar year. In the case of:

39 (a) ~~{Telephone utilities,}~~ *Telecommunication providers*, except as provided in
40 paragraph (c), the revenue shall be deemed to be all intrastate revenues.

41 (b) Railroads, the revenue shall be deemed to be the revenue received only
42 from freight and passenger intrastate movements.

43 (c) All public utilities, providers of discretionary natural gas service and
44 alternative sellers, the revenue does not include the proceeds of any commodity,
45 energy or service furnished to another public utility, provider of discretionary
46 natural gas service or alternative seller for resale.

47 6. Providers of commercial mobile radio service are not subject to the annual
48 assessment and, in lieu thereof, shall pay to the Commission an annual licensing fee
49 of \$200.

50 **Sec. 35.** NRS 704.040 is hereby amended to read as follows:

51 704.040 1. Every public utility shall furnish reasonably adequate service
52 and facilities. ~~It shall~~ *Subject to the provisions of subsection 3*, 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 a plan of alternative regulation for a public utility that provides telecommunication services. The 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 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, NRS 426.295 and chapter 707 of NRS that do not apply to a public utility that elects to be regulated under the 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 period in which the incumbent local exchange carrier is to be regulated under the plan of alternative regulation. The incumbent local exchange carrier may not select a period that is less than 3 years or more than 5 years. The provisions of this paragraph do not apply to a plan of alternative regulation of an incumbent local exchange carrier regulated under a plan of alternative regulation that was approved by the Commission before June 11, 2003.~~

~~5. A public utility that elects to be regulated under a plan of alternative regulation established pursuant to subsection 4 is not subject to the remaining]~~

3. Except as otherwise provided in sections 18 to 30, inclusive, of this act:

(a) A competitive supplier is exempt from any provision of this chapter governing the rates, prices, terms and conditions of any telecommunication service.

(b) A small-scale provider of last resort is subject to the provisions of this chapter, NRS 426.295 [or] and chapter 707 of NRS . [to the extent specified pursuant to paragraph (c) of subsection 4.]

~~6.] 4. All telecommunication providers [of telecommunication services] which offer the same or similar service must be subject to fair and impartial regulation, to promote adequate, economical and efficient service.~~

~~[7.— The Commission may]~~

5. To maintain the availability of telephone service in accordance with the regulations adopted pursuant to NRS 704.6873, the Commission shall provide for the levy and collection of [an] a uniform and equitable assessment, in an amount determined by the Commission, from [a public utility that provides telecommunication services in order to maintain the availability of telephone service.] all persons furnishing intrastate telecommunication service or the functional equivalent of such service through any form of telephony technology, unless the levy and collection of the assessment with regard to a particular form of technology is prohibited by federal law. Assessments levied and collected pursuant to this subsection must be maintained in a separate fund established by the

Commission. The Commission shall contract with an independent administrator to administer the fund pursuant to open competitive bidding procedures established by the Commission. The independent administrator shall collect the assessments levied and distribute them from the fund pursuant to a plan which has been approved by the Commission. Money in the fund must be used for the sole purpose of maintaining the availability of telephone service.

~~[8. As used in this section:~~

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

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

Sec. 36. NRS 704.070 is hereby amended to read as follows:

704.070 ~~[Unless exempt under the provisions of]~~ *Except as otherwise provided in* NRS 704.075, 704.095 or 704.097 ~~[.]~~ *and sections 18 to 30, inclusive, of this act:*

1. Each public utility shall file with the Commission, within a time to be fixed by the Commission, a copy of all schedules that are currently in force for the public utility. Such schedules must be open to public inspection.

2. A copy of each schedule that is currently in force for the public utility, or so much of the schedule as the Commission deems necessary for inspection by the public, must be:

(a) Printed in plain type and posted in each office of the public utility where payments are made to the public utility by its customers; and

(b) Open to inspection by the public and in such form and place as to be readily accessible to and conveniently inspected by the public.

Sec. 37. NRS 704.100 is hereby amended to read as follows:

704.100 Except as otherwise provided in NRS 704.075 and ~~[704.68904 to 704.68984.]~~ *sections 18 to 30, inclusive, of this act* or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097 ~~: for pursuant to the regulations adopted by the Commission in accordance with subsection 4 of NRS 704.040.]~~

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

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

(b) Files the proposed changes with the Commission using a letter of advice in accordance with the provisions of subsection 5.

2. A public utility shall adjust its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8 of NRS 704.110 based on changes in the public utility's recorded costs of natural gas purchased for resale.

3. 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.

4. 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.

5. Except as otherwise provided in subsection 6, 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.

6. If the applicant is a ~~public utility furnishing telephone service~~ **small-scale provider of last resort** 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.

7. In making the determination pursuant to subsection 5 or 6, 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. 38. 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,~~ **sections 18 to 30**, inclusive, **of this act** or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097 : ~~for 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 ~~subsections 3 and 13,~~ **subsection 3**, if a public utility files with the Commission an application to make changes in any schedule, the Commission shall issue a written order approving or disapproving, in whole or in part, the proposed changes ~~;~~

~~—(a) For a public utility that is a PAR carrier, not later than 180 days after the date on which the application is filed; and~~

~~—(b) For all other public utilities,~~ not later than 210 days after the date on which the application is filed.

3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. Except as otherwise provided in subsection 4, in determining whether to approve or disapprove any increased rates, the Commission shall consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the

1 application. Adjustments to revenues, operating expenses and costs of securities
2 must be calculated on an annual basis. Within 90 days after the date on which the
3 certification required by this subsection is filed with the Commission, or within the
4 period set forth in subsection 2, whichever time is longer, the Commission shall
5 make such order in reference to the increased rates as is required by this chapter.
6 An electric utility shall file a general rate application pursuant to this subsection at
7 least once every 24 months based on the following schedule:

8 (a) An electric utility that primarily serves less densely populated counties
9 shall file a general rate application on or before October 3, 2005, and at least once
10 every 24 months thereafter.

11 (b) An electric utility that primarily serves densely populated counties shall file
12 a general rate application on or before November 15, 2006, and at least once every
13 24 months thereafter.

14 4. In addition to submitting the statement required pursuant to subsection 3, a
15 public utility which purchases natural gas for resale may submit with its general
16 rate application a statement showing the effects, on an annualized basis, of all
17 expected changes in circumstances. If such a statement is filed, it must include all
18 increases and decreases in revenue and expenses which may occur within 210 days
19 after the date on which its general rate application is filed with the Commission if
20 such expected changes in circumstances are reasonably known and are measurable
21 with reasonable accuracy. If a public utility submits such a statement, the public
22 utility has the burden of proving that the expected changes in circumstances set
23 forth in the statement are reasonably known and are measurable with reasonable
24 accuracy. If the Commission determines that the public utility has met its burden of
25 proof:

26 (a) The Commission shall consider the statement submitted pursuant to this
27 subsection and evidence relevant to the statement in addition to the statement
28 required pursuant to subsection 3 as evidence in establishing just and reasonable
29 rates for the public utility; and

30 (b) The public utility is not required to file with the Commission the
31 certification that would otherwise be required pursuant to subsection 3.

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

36 6. If a public utility files with the Commission a general rate application, the
37 public utility shall not file with the Commission another general rate application
38 until all pending general rate applications filed by that public utility have been
39 decided by the Commission unless, after application and hearing, the Commission
40 determines that a substantial financial emergency would exist if the public utility is
41 not permitted to file another general rate application sooner. The provisions of this
42 subsection do not prohibit the public utility from filing with the Commission, while
43 a general rate application is pending, an application to recover the increased cost of
44 purchased fuel, purchased power, or natural gas purchased for resale pursuant to
45 subsection 7 or an application to clear its deferred accounts pursuant to subsection
46 9, if the public utility is otherwise authorized by those provisions to file such an
47 application.

48 7. A public utility may file an application to recover the increased cost of
49 purchased fuel, purchased power, or natural gas purchased for resale once every 30
50 days. The provisions of this subsection do not apply to:

51 (a) An electric utility using deferred accounting pursuant to NRS 704.187; or

(b) A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8.

8. A public utility which purchases natural gas for resale must request approval from the Commission to adjust its rates on a quarterly basis between annual rate adjustment applications based on changes in the public utility's recorded costs of natural gas purchased for resale. If the Commission approves such a request:

(a) The public utility shall file written notice with the Commission before the public utility makes a quarterly rate adjustment between annual rate adjustment applications. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the public utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and

(IV) Any other information required by the Commission.

(c) The public utility shall file an annual rate adjustment application with the Commission. The annual rate adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual rate adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of natural gas included in each quarterly rate adjustment and the annual rate adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the public utility, and the Commission shall order the public utility to adjust its rates if the Commission determines that any recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application were not reasonable or prudent.

9. Except as otherwise provided in subsection 10 and subsection 5 of NRS 704.100, if an electric utility using deferred accounting pursuant to NRS 704.187 files an application to clear its deferred accounts and to change one or more of its rates based upon changes in the costs for purchased fuel or purchased power, the Commission, after a public hearing and by an appropriate order:

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

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

10. Before allowing an electric utility to clear its deferred accounts pursuant to subsection 9, the Commission shall determine whether the costs for purchased fuel and purchased power that the electric utility recorded in its deferred accounts are recoverable and whether the revenues that the electric utility collected from customers in this State for purchased fuel and purchased power are properly recorded and credited in its deferred accounts. The Commission shall not allow the electric utility to recover any costs for purchased fuel and purchased power that were the result of any practice or transaction that was undertaken, managed or performed imprudently by the electric utility.

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

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

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

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

~~13. [A PAR carrier may, in accordance with this section and NRS 704.100, file with the Commission a request to approve or change any schedule to provide volume or duration discounts to rates for telecommunication service for an offering made to all or any class of business customers. The Commission may conduct a hearing relating to the request, which must occur within 45 days after the date the request is filed with the Commission. The request and schedule shall be deemed approved if the request and schedule are not disapproved by the Commission within 60 days after the date the Commission receives the request.]~~

~~—14.]~~ As used in this section:

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

(b) “Electric utility that primarily serves densely populated counties” has the meaning ascribed to it in NRS 704.187.

(c) “Electric utility that primarily serves less densely populated counties” has the meaning ascribed to it in NRS 704.187.

~~[(d) “PAR carrier” has the meaning ascribed to it in NRS 704.68942.]~~

Sec. 39. NRS 704.120 is hereby amended to read as follows:

704.120 1. If, upon any hearing and after due investigation, the rates, tolls, charges, schedules or joint rates shall be found to be unjust, unreasonable or unjustly discriminatory, or to be preferential, or otherwise in violation of any of the provisions of this chapter, the Commission shall have the power to fix and order substituted therefor such rate or rates, tolls, charges or schedules as shall be just and reasonable.

2. If it shall in like manner be found that any regulation, measurement, practice, act or service complained of is unjust, unreasonable, insufficient, preferential, unjustly discriminatory or otherwise in violation of the provisions of

1 this chapter, or if it be found that the service is inadequate, or that any reasonable
 2 service cannot be obtained, the Commission shall have the power to substitute
 3 therefor such other regulations, measurements, practices, service or acts and make
 4 such order relating thereto as may be just and reasonable.

5 3. When complaint is made of more than one rate, charge or practice, the
 6 Commission may, in its discretion, order separate hearings upon the several matters
 7 complained of and at such times and places as it may prescribe.

8 4. No complaint shall at any time be dismissed because of the absence of
 9 direct damage to the complainant.

10 5. The Commission may at any time, upon its own motion, investigate any of
 11 the rates, tolls, charges, rules, regulations, practices and service, and, after a full
 12 hearing as above provided, by order, make such changes as may be just and
 13 reasonable, the same as if a formal complaint had been made.

14 6. *The provisions of this section do not apply to a competitive supplier,*
 15 *except that a competitive supplier that is an incumbent local exchange carrier is*
 16 *subject to the provisions of this section with regard to:*

17 (a) *The provision of basic network service until January 1, 2012; and*

18 (b) *Any general rate application filed by the competitive supplier pursuant to*
 19 *paragraph (b) of subsection 2 of section 25 of this act. If the competitive supplier*
 20 *files such a general rate application, the general rate case proceeding must be*
 21 *conducted by the Commission in accordance with this section and NRS 704.110.*

22 **Sec. 40.** NRS 704.175 is hereby amended to read as follows:

23 704.175 1. Except as provided in subsection 2, any public utility which
 24 installs or modifies any electrical supply line in any building or facility which it
 25 owns or operates, if the building or facility is open and accessible to the general
 26 public, shall perform such installation or modification as if the National Electrical
 27 Code adopted by the National Fire Protection Association applied to such work,
 28 and any local government which regulates electrical construction shall inspect such
 29 work within its jurisdiction for compliance with this section.

30 2. Communication equipment and related apparatus are exempted from the
 31 provisions of subsection 1 only if the equipment and apparatus ~~is~~ *are* owned,
 32 installed, operated and maintained by a ~~{public utility which provides~~
 33 ~~communication services}~~ *telecommunication provider* under the jurisdiction of the
 34 Commission.

35 **Sec. 41.** NRS 704.210 is hereby amended to read as follows:

36 704.210 ~~{The}~~

37 1. *Except as otherwise provided in subsection 2, the* Commission may:

38 ~~{1.}~~ (a) Adopt necessary and reasonable regulations governing the procedure,
 39 administration and enforcement of the provisions of this chapter, subject to the
 40 provisions of NRS 416.060.

41 ~~{2.}~~ (b) Prescribe classifications of the service of all public utilities and, except
 42 as otherwise provided in NRS 704.075, fix and regulate the rates therefor.

43 ~~{3.}~~ (c) Fix just and reasonable charges for transportation of all intrastate
 44 freight and passengers and the rates and tolls for the use of telephone lines within
 45 the State.

46 ~~{4.}~~ (d) Adopt just and reasonable regulations for the apportionment of all joint
 47 rates and charges between public utilities.

48 ~~{5.}~~ (e) Consider the need for the conservation of energy when acting pursuant
 49 to the provisions of ~~{subsections 1, 2 and 3.}~~ *this subsection.*

50 2. *The provisions of subsection 1 do not apply to a competitive supplier.*

51 **Sec. 42.** NRS 704.215 is hereby amended to read as follows:

52 704.215 ~~{The}~~

1 **1. Subject to the provisions of this chapter, the** Commission may adopt by
2 reference all or part of any appropriate:

3 ~~[(1)]~~ (a) Rule, regulation or rate ~~[related to telecommunications services]~~
4 **schedule relating to telecommunication service** issued by an agency of the Federal
5 Government or of any state.

6 ~~[(2)]~~ (b) Regulation proposed by the National Association of Regulatory Utility
7 Commissioners or code issued by a national or state professional society.

8 ~~{→}~~
9 **2.** A copy of each such rule, regulation, rate schedule ~~[related to~~
10 ~~telecommunications services]~~ or code ~~[so]~~ adopted **by the Commission pursuant to**
11 **this section** must be included with the regulations filed with the Secretary of State.

12 **Sec. 43.** NRS 704.328 is hereby amended to read as follows:

13 704.328 The provisions of NRS 704.322 to 704.326, inclusive, ~~[shall]~~ **do** not
14 apply to ~~[any]~~:

15 **1. A public utility engaged in:**

16 ~~[(1)]~~ (a) Interstate commerce if 25 percent or more of the operating revenues of
17 such public utility are derived from interstate commerce.

18 ~~[(2)]~~ (b) The business of furnishing, for compensation, water or services for the
19 disposal of sewage, or both, to persons within this State if the utility:

20 ~~[(a)]~~ (1) Serves 15 persons or less; and

21 ~~[(b)]~~ (2) Operates in a county whose population is 400,000 or more.

22 **2. A competitive supplier.**

23 **Sec. 44.** (Deleted by amendment.)

24 **Sec. 45.** NRS 704.330 is hereby amended to read as follows:

25 704.330 1. ~~[Every public utility]~~ **Except as otherwise provided in this**
26 **section, any person** owning, controlling, operating or maintaining or having any
27 contemplation of owning, controlling or operating any public utility shall, before
28 beginning such operation or continuing operations or construction of any line, plant
29 or system or any extension of a line, plant or system within this State, obtain from
30 the Commission a certificate that the present or future public convenience or
31 necessity requires or will require such continued operation or commencement of
32 operations or construction.

33 2. ~~[Nothing in]~~ **The provisions of** this section ~~[requires]~~ **do not require** a
34 public utility to secure such a certificate for any extension within any town or city
35 within which it lawfully **has** commenced operations or for any other extension ~~[as~~
36 ~~long as]~~ **if** the extension:

37 (a) **Is undertaken by a small-scale provider of last resort** to serve a telephone
38 toll station or stations to be located not more than 10 miles from existing telephone
39 facilities; ~~[or]~~

40 (b) **Is undertaken for any purpose by a competitive supplier; or**

41 (c) Remains within the boundaries of the service area which have been
42 established by the Commission for its railroad, line, plant or system, and not then
43 served by a public utility of like character.

44 3. Upon the granting of any certificate of public convenience, the
45 Commission may make such an order and prescribe such terms and conditions for
46 the location of lines, plants or systems to be constructed, extended or affected as
47 may be just and reasonable.

48 4. When a complaint has been filed with the Commission alleging that any
49 utility is being operated without a certificate of public convenience and necessity as
50 required by this section, or when the Commission has reason to believe that any
51 provision of this section is being violated, the Commission shall investigate such
52 operations and the Commission may, after a hearing, make its order requiring the
53 owner or operator of the utility to cease and desist from any operation in violation

of this section. The Commission shall enforce compliance with such an order under the powers vested in the Commission by law.

5. If any public utility in constructing or extending its line, plant or system interferes or is about to interfere with the operation of the line, plant or system of any other public utility already constructed, the Commission, on complaint of the public utility claiming to be injuriously affected, after hearing, may make such an order prohibiting the construction or extension, or prescribing such terms and conditions for the location of the lines, plants or systems affected, as to it may seem just and reasonable.

6. Except as *otherwise* provided in ~~subsection 7, whenever~~ *subsections 7 and 8, if* the Commission, after a hearing upon its own motion or upon complaint, finds that there is or will be a duplication of service by public utilities in any area, the Commission shall either issue a certificate of public convenience and necessity assigning specific territories to one or to each of such utilities, or, by certificate of public convenience and necessity, otherwise define the conditions of rendering service and construction, extensions within such territories, and shall order the elimination of such duplication, all upon such terms as are just and reasonable, having due regard to due process of law and to all the rights of the respective parties and to public convenience and necessity.

7. The Commission may allow *and regulate* a duplication of service by ~~public utilities~~ *telecommunication providers* in an area ~~if:~~
~~(a) The service provided is related to telecommunication; and~~
~~(b) It~~ *where the provider of last resort is a small-scale provider of last resort if the Commission* finds that the competition should occur and that any duplication of service is reasonable.

8. *The Commission:*

(a) *Shall allow a duplication of service or facilities by telecommunication providers in an area where the provider of last resort is a competitive supplier; and*

(b) *On or after January 1, 2012, shall not regulate a duplication of service or facilities by telecommunication providers in an area where the provider of last resort is a competitive supplier.*

9. *A competitive supplier that is a provider of last resort:*

(a) *Must provide to the Commission a description of and map depicting the boundaries of the service area in which the Commission has designated the competitive supplier as the provider of last resort; and*

(b) *May change the boundaries of that service area by filing an application with the Commission. The application shall be deemed approved if the Commission does not act on the application within 120 days after the date the application is filed with the Commission.*

Sec. 46. NRS 704.380 is hereby amended to read as follows:

704.380 ~~[No]~~ 1. *Except as otherwise provided in subsection 2, any public utility beginning, prosecuting or completing any new construction in violation of this chapter shall be* ~~is not~~ permitted to levy any tolls or charges for services rendered, and all such tolls and charges ~~shall be~~ *are* void.

2. *The provisions of subsection 1 do not apply to a competitive supplier that is operating in accordance with the provisions of this chapter governing telecommunication providers.*

Sec. 47. NRS 704.390 is hereby amended to read as follows:

704.390 1. ~~It~~ *Except as otherwise provided in sections 18 to 30, inclusive, of this act, it* is unlawful for any public utility to discontinue, modify or restrict service to any city, town, municipality, community or territory theretofore serviced by it, except upon 30 days' notice filed with the Commission, specifying in detail

1 the character and nature of the discontinuance or restriction of the service intended,
2 and upon order of the Commission, made after hearing, permitting such
3 discontinuance, modification or restriction of service.

4 2. Except as otherwise provided in subsection 3, the Commission, in its
5 discretion and after investigation, may dispense with the hearing on the application
6 for discontinuance, modification or restriction of service if, upon the expiration of
7 the time fixed in the notice thereof, no protest against the granting of the
8 application has been filed by or on behalf of any interested person.

9 3. The Commission shall not dispense with the hearing on the application of
10 an electric utility.

11 **Sec. 48.** NRS 704.410 is hereby amended to read as follows:

12 704.410 1. Any public utility subject to the provisions of NRS 704.001 to
13 704.7595, inclusive, to which a certificate of public convenience and necessity has
14 been issued pursuant to NRS 704.001 to 704.7595, inclusive, may transfer the
15 certificate to any person qualified under NRS 704.001 to 704.7595, inclusive. Such
16 a transfer is void and unenforceable and is not valid for any purpose unless:

17 (a) A joint application to make the transfer has been made to the Commission
18 by the transferor and the transferee ~~or~~ *or the transfer is incident to a transaction*
19 *that is subject to an application under NRS 704.329 approved by the*
20 *Commission;* and

21 (b) The Commission has authorized the substitution of the transferee for the
22 transferor. If the transferor is an electric utility, the Commission shall not authorize
23 the transfer unless the transfer complies with the provisions of NRS 704.7561 to
24 704.7595, inclusive.

25 2. The Commission:

26 (a) Shall conduct a hearing on a transfer involving an electric utility. The
27 hearing must be noticed and conducted in the same manner as other contested
28 hearings before the Commission.

29 (b) May direct that a hearing be conducted on a transfer involving any other
30 public utility. If the Commission determines that such a hearing should be held, the
31 hearing must be noticed and conducted in the same manner as other contested
32 hearings before the Commission. The Commission may dispense with such a
33 hearing if, upon the expiration of the time fixed in the notice thereof, no protest to
34 the proposed transfer has been filed by or on behalf of any interested person.

35 3. In determining whether the transfer of a certificate of public convenience
36 and necessity to an applicant transferee should be authorized, the Commission must
37 take into consideration:

38 (a) The utility service performed by the transferor and the proposed utility
39 service of the transferee;

40 (b) Other authorized utility services in the territory for which the transfer is
41 sought;

42 (c) Whether the transferee is fit, willing and able to perform the services of a
43 public utility and whether the proposed operation will be consistent with the
44 legislative policies set forth in NRS 704.001 to 704.7595, inclusive; and

45 (d) Whether the transfer will be in the public interest.

46 4. The Commission may make such amendments, restrictions or
47 modifications in a certificate upon transferring it as the public interest requires.

48 5. No transfer is valid beyond the life of the certificate transferred.

49 **Sec. 49.** NRS 704.440 is hereby amended to read as follows:

50 704.440 1. ~~The~~ *Except as otherwise provided in subsection 2, the*
51 Commission may, in its discretion, investigate and ascertain the value of all
52 property of every public utility actually used and useful for the convenience of the
53 public.

~~[2.]~~ In making such *an* investigation, the Commission may avail itself of all information contained in the assessment rolls of the various counties and the public records and files of all state departments, offices and commissions, and any other information obtainable.

2. The provisions of subsection 1 do not apply to a competitive supplier.

Sec. 50. NRS 704.684 is hereby amended to read as follows:

704.684 1. Except as otherwise provided in ~~[subsection 2 and NRS 704.68984.]~~ *this section*, the Commission shall not regulate any broadband service, including imposing any requirements relating to the terms, conditions, rates or availability of broadband service.

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

(a) Consider any revenues, costs and expenses that a ~~[public utility]~~ *small-scale provider of last resort* derives from providing a broadband service, if the Commission is determining the rates of the ~~[public utility]~~ *provider* under a general rate application that is filed pursuant to subsection 3 of NRS 704.110;

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

(c) Include any appropriate gross operating revenue that a public utility derives from providing broadband service when the Commission calculates the gross operating revenue of the public utility for the purposes of levying and collecting the annual assessment in accordance with the provisions of NRS 704.033; or

(d) Determine the rates, *pricing*, terms and conditions of intrastate *switched or* special access *services* ~~[.] [service]~~ *provided by a telecommunication provider.*

3. The provisions of subsection 1 do not:

(a) *Apply to the Commission in connection with any actions or decisions required or permitted by the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56-161; or*

(b) *Limit or modify:*

(1) *The duties of a telecommunication provider regarding the provision of network interconnection, unbundled network elements and resold services under the provisions of the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56-161; or*

(2) *The authority of the Commission to act pursuant to NRS 704.6881 and 704.6882.*

4. As used in this section ~~[:]~~

~~—(a) “Affiliate of an incumbent local exchange carrier” has the meaning ascribed to it in NRS 704.6891.~~

~~—(b) “Broadband”~~, *“broadband”* service” means any two-way service that transmits information at a rate that is generally not less than 200 kilobits per second in at least one direction.

~~[(c) “Incumbent local exchange carrier” has the meaning ascribed to it in NRS 704.68932.]~~

Sec. 51. NRS 704.6873 is hereby amended to read as follows:

704.6873 1. The Commission shall adopt regulations that require each ~~[utility which provides telecommunication services]~~ *telecommunication provider furnishing service* to:

(a) An elementary or secondary public school; or

(b) A public library,

↳ to establish discounts in the rates for the telecommunication services that the ~~[utility provides]~~ *provider furnishes* to that school or library. The amount of the discount must be determined by the Commission in a manner that is consistent with the provisions of 47 U.S.C. § 254.

2. The Commission shall adopt regulations that require each ~~utility which provides telecommunication services~~ *telecommunication provider furnishing service* to:

(a) Public or private nonprofit providers of health care which serve persons in rural areas; or

(b) Persons with low income and persons in rural, insular and high-cost areas, ~~to ensure that such providers of health care and persons have access to telecommunication services that are reasonably comparable to those services available in urban areas and that the rates for such services charged by the utility~~ *telecommunication provider* are reasonably comparable to those charged in the urban areas, to the extent required by the provisions of 47 U.S.C. § 254.

3. The Commission shall adopt regulations which set forth the requirements for eligibility for ~~persons~~ :

(a) *Persons* with low income ~~and definitions for~~ *to receive a reduction in rates for telephone service pursuant to NRS 707.400 to 707.500, inclusive. The regulations adopted pursuant to this paragraph must provide that if a person is a customer of:*

(1) *A competitive supplier that is an incumbent local exchange carrier, the person is eligible to receive a reduction in rates if the person's household has a total household gross income not exceeding 175 percent of the federally established poverty level for a household with the same number of persons; and*

(2) *Any other competitive supplier or a small-scale provider of last resort, the person is eligible to receive a reduction in rates if the person's household has a total household gross income not exceeding 150 percent of the federally established poverty level for a household with the same number of persons.*

(b) *Small-scale providers of last resort to apply to receive payments from the fund to maintain the availability of telephone service with regard to* rural, insular and high-cost areas.

(c) *Competitive suppliers that are providers of last resort to apply to receive payments from the fund to maintain the availability of telephone service with regard to* rural, insular and high-cost areas.

4. Any regulations adopted pursuant to this section *and NRS 704.040 regarding the availability of telephone service* must ~~be~~ :

(a) *Be* consistent with the *applicable* provisions of 47 U.S.C. § 254 ~~H~~;

(b) *Define* rural, insular and high-cost areas;

(c) *Establish nondiscriminatory eligibility requirements for all small-scale providers of last resort that apply to receive payments from the fund to maintain the availability of telephone service with regard to* rural, insular and high-cost areas; and

(d) *Allow competitive suppliers which are providers of last resort and which meet the eligibility requirements established by the Commission to apply to receive payments from the fund to maintain the availability of telephone service with regard to* rural, insular and high-cost areas.

Sec. 52. NRS 704.6875 is hereby amended to read as follows:

704.6875 1. Except as otherwise provided in subsection 2, each ~~public utility which provides telecommunication services~~ *telecommunication provider* shall provide timely written notice to a customer of the duration of each call that is billed to the customer, reported in minutes, seconds or any fraction thereof, if the charges for the telecommunication services are calculated, in whole or in part, on the basis of the duration of the call.

2. The provisions of this section do not apply to measured rate service. ~~that is regulated by the Commission.~~

1 **Sec. 53.** NRS 704.6881 is hereby amended to read as follows:

2 704.6881 The Commission shall, by regulation:

3 1. Establish standards of performance and reporting regarding the provision
4 of interconnection, unbundled network elements and resold services, which
5 encourage competition and discourage discriminatory conduct in the provision of
6 local telecommunication services; and

7 2. Notwithstanding the provisions of NRS 703.320 to the contrary, establish
8 penalties and expedited procedures for imposing penalties upon a
9 *telecommunication* provider ~~{of telecommunication services}~~ for actions that are
10 inconsistent with the standards established by the Commission pursuant to
11 subsection 1. Such penalties may include financial payment to the complaining
12 *telecommunication* provider ~~{of telecommunication services}~~ for a violation of the
13 standards established by the Commission pursuant to subsection 1, provided that
14 any penalty paid must be deducted, with interest, from any other award under any
15 other judicial or administrative procedure for the same conduct in the same
16 reporting period. Any penalty imposed pursuant to this subsection is in lieu of the
17 civil penalties set forth in NRS 703.380 and must be:

18 (a) Imposed for violating a standard or standards established by regulations of
19 the Commission pursuant to subsection 1;

20 (b) Determined by the Commission to further the goal of encouraging
21 competition or discouraging discriminatory conduct; and

22 (c) In an amount reasonable to encourage competition or discourage
23 discriminatory conduct.

24 **Sec. 54.** NRS 704.6882 is hereby amended to read as follows:

25 704.6882 Notwithstanding the provisions of NRS 703.310 and 703.320, the
26 Commission shall establish by regulation expedited procedures for complaints filed
27 by a *telecommunication* provider ~~{of telecommunication services}~~ against another
28 *telecommunication* provider ~~{of telecommunication services}~~ for any dispute
29 arising under this chapter, *including, without limitation, a dispute arising under*
30 *the standards set forth in section 30 of this act*, or *arising under* chapter 703 of
31 NRS. ~~{, including}~~ *The regulations may include, without limitation*, specific
32 procedures for interim relief that may include a preliminary decision by a single
33 Commissioner except as to the imposition of monetary penalties.

34 **Sec. 55.** NRS 704.6884 is hereby amended to read as follows:

35 704.6884 The provisions of NRS 704.6881 to 704.6884, inclusive, must not
36 be construed to exempt *telecommunication* providers ~~{of telecommunication~~
37 ~~services}~~ from any other applicable statute of this State or the United States relating
38 to consumer and antitrust protections. The exemption provided in paragraph (c) of
39 subsection 3 of NRS 598A.040 does not apply to conduct of, or actions taken by, a
40 *telecommunication* provider ~~{of telecommunication services}~~ in violation of the
41 standards established pursuant to subsection 1 of NRS 704.6881.

42 **Sec. 56.** Chapter 707 of NRS is hereby amended by adding thereto the
43 provisions set forth as sections 57 to 60, inclusive, of this act.

44 **Sec. 57.** *As used in this chapter, unless the context otherwise requires, the*
45 *words and terms defined in sections 58, 59 and 60 of this act have the meanings*
46 *ascribed to them in those sections.*

47 **Sec. 58.** *“Basic network service” has the meaning ascribed to it in section 2*
48 *of this act.*

49 **Sec. 59.** *“Telecommunication provider” or “telephone company” has the*
50 *meaning ascribed to it in section 12 of this act.*

51 **Sec. 60.** *“Telecommunication service” or “telephone service” has the*
52 *meaning ascribed to it in section 13 of this act.*

1 **Sec. 61.** NRS 707.440 is hereby amended to read as follows:

2 707.440 “Eligible provider” means a *telecommunication* provider ~~for~~
3 ~~telecommunication services~~ that has been designated as an eligible
4 telecommunications carrier by the Commission to receive universal service support
5 pursuant to 47 U.S.C. § 214, as that section existed on January 1, 1999.

6 **Sec. 62.** NRS 707.490 is hereby amended to read as follows:

7 707.490 1. The reduction in the telephone rates provided by lifeline or link
8 up services must be based on the methods for determining reductions which are
9 adopted by the Commission by regulation. The Commission may provide different
10 methods for determining reductions to allow for differences between eligible
11 providers. The methods may include, without limitation:

12 (a) Basing the reduction on the tariff filed by the eligible provider with the
13 Commission; or

14 (b) Establishing a formula pursuant to which the amount of the reduction may
15 be determined.

16 2. The reduction in such telephone rates applies only to:

17 (a) ~~Residential flat rate basic local exchange service;~~

18 ~~—(b) Residential local exchange access service;~~

19 ~~—(c) Residential local calling area service; and~~

20 ~~—(d)} Basic network service; and~~

21 (b) Residential service connection charges ~~for~~ *for such basic network service.*

22 3. ~~{The reduced rate for residential local exchange access service, when~~
23 ~~combined with the reduced rate for residential local calling area service, must not~~
24 ~~exceed the comparable reduced rate for residential flat rate basic local exchange~~
25 ~~service.~~

26 ~~—4.}~~ If the amount of the reduction in rates provided by an eligible provider to
27 an eligible customer for lifeline services is greater than the amount which the
28 eligible provider receives as universal service support pursuant to 47 U.S.C. § 254,
29 the eligible provider is entitled to reimbursement from the fund *to maintain the*
30 *availability of telephone service* established by the Commission pursuant to NRS
31 704.040 for the difference between the amount of the reduction and the amount
32 received as universal service support pursuant to 47 U.S.C. § 254.

33 **Sec. 63.** NRS 709.050 is hereby amended to read as follows:

34 709.050 1. The board of county commissioners may grant to any person,
35 company, corporation or association the franchise, right and privilege to construct,
36 install, operate and maintain street railways, electric light, heat and power lines, gas
37 and water mains, telephone and telegraph lines, and all necessary or proper
38 appliances used in connection therewith or appurtenant thereto, in the streets,
39 alleys, avenues and other places in any unincorporated town in the county, and
40 along the public roads and highways of the county, when the applicant complies
41 with the terms and provisions of NRS 709.050 to 709.170, inclusive.

42 2. The board of county commissioners shall not:

43 (a) Impose any terms or conditions on a franchise granted pursuant to
44 subsection 1 for the provision of ~~telecommunications~~ *telecommunication* service
45 or interactive computer service other than terms or conditions concerning the
46 placement and location of the telephone or telegraph lines and fees imposed for a
47 business license or the franchise, right or privilege to construct, install or operate
48 such lines.

49 (b) Require a company that provides ~~telecommunications~~ *telecommunication*
50 service or interactive computer service to obtain a franchise if it provides
51 ~~telecommunications~~ *telecommunication* service over the telephone or telegraph
52 lines owned by another company.

53 3. As used in NRS 709.050 to 709.170, inclusive:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~230(e)(2)~~ 230(f)(2), as that section existed on ~~July 16, 1997~~ January 1, 2007.

(b) "Street railway" means:

(1) A system of public transportation operating over fixed rails on the surface of the ground; or

(2) An overhead or underground system, other than a monorail, used for public transportation.

➤ The term does not include a super speed ground transportation system as defined in NRS 705.4292.

(c) ~~["Telecommunications"]~~ "Telecommunication service" has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ section 13 of this act.

4. As used in this section, "monorail" has the meaning ascribed to it in NRS 705.650.

Sec. 64. NRS 709.130 is hereby amended to read as follows:

709.130 1. Every person, company, corporation or association receiving a franchise pursuant to the provisions of NRS 709.050 to 709.170, inclusive, shall:

(a) Provide a plant with all necessary appurtenances of approved construction for the full performance of his franchise duties, rights and obligations, and for the needs, comfort and convenience of the inhabitants of the various unincorporated towns and cities, county or place to which his franchise relates.

(b) Keep the plants and appurtenances, including all tracks, cars, poles, wires, pipes, mains and other attachments, in good repair, so as not to interfere with the passage of persons or vehicles, or the safety of persons or property.

2. Except as otherwise provided in this subsection, the board of county commissioners may when granting such franchise, fix and direct the location of all tracks, poles, wires, mains, pipes and other appurtenances upon the public streets, alleys, avenues and highways as best to serve the convenience of the public. The board may change the location of any appurtenances and permit, upon proper showing, all necessary extensions thereof when the interest or convenience of the public requires. The board shall not require a company that provides ~~telecommunications]~~ telecommunication service or interactive computer service to place its facilities in ducts or conduits or on poles owned or leased by the county.

3. All poles, except poles from which trolley wires are suspended for streetcar lines, from which wires are suspended for electric railroads, power, light or heating purposes within the boundaries of unincorporated towns and over public highways must not be less than 30 feet in height, and the wires strung thereon must not be less than 25 feet above the ground.

4. Every person, company, association or corporation operating a telephone, telegraph or electric light, heat or power line, or any electric railway line, shall, with due diligence, provide itself, at its own expense, a competent electrician to cut, repair and replace wires in all cases where cutting or repairing or replacing is made necessary by the removal of buildings or other property through the public streets or highways.

5. No person, company, corporation or association may receive an exclusive franchise nor may any board of county commissioners grant a franchise in such manner or under such terms or conditions as to hinder or obstruct the granting of franchises to other grantees, or in such manner as to obstruct or impede reasonable competition in any business or public service to which NRS 709.050 to 709.170, inclusive, apply.

1 **Sec. 65.** NRS 710.140 is hereby amended to read as follows:

2 710.140 1. The control, management and conduct of any telephone line or
3 system purchased, acquired or constructed by any county must be exercised by the
4 board of county commissioners of such county.

5 2. The board of county commissioners has the right to employ such persons as
6 may be necessary to carry on the business of the county telephone line or system.

7 3. The board of county commissioners shall comply with chapter 332 of NRS
8 in letting contracts for the use and benefit of the county telephone line or system.

9 4. If the Public Utilities Commission of Nevada has provided for the levy and
10 collection of an assessment pursuant to ~~subsection 7 of~~ NRS 704.040 for ~~the~~ *the*
11 fund to maintain the availability of telephone service, the county telephone line or
12 system is subject to the levy and collection of the assessment and is entitled to
13 receive money from the fund under the same terms and conditions as a ~~public~~
14 ~~utility that is subject to subsection 7 of NRS 704.040.~~ *telecommunication provider*
15 *regulated pursuant to chapter 704 of NRS.*

16 5. In carrying on the business of the county telephone line or system, the
17 board of county commissioners may create a separate corporation to provide
18 communication services that are not within the scope of activities regulated
19 pursuant to chapter 704 of NRS. The control and management of the separate
20 corporation must be exercised by the board of county commissioners, and the
21 separate corporation is subject to all applicable provisions of NRS 710.010 to
22 710.159, inclusive, to the same extent as the county telephone line or system.

23 6. If, after October 1, 2006, the county telephone line or system provides,
24 outside the territorial boundaries of the county, any communication services that are
25 not within the scope of activities regulated pursuant to chapter 704 of NRS, the
26 county telephone line or system:

27 (a) With regard to the facilities and property it maintains outside the territorial
28 boundaries of the county, shall comply with the same federal, state and local
29 requirements that would apply to a privately held company providing the same
30 communication services; and

31 (b) With regard to the provision of such services outside the territorial
32 boundaries of the county:

33 (1) Shall comply with any regulations and rules of the Public Utilities
34 Commission of Nevada that would apply to a privately held company providing the
35 same communication services;

36 (2) Shall not use any money from the county general fund for the provision
37 of such services; and

38 (3) Shall not engage in any transaction with an affiliated entity at prices
39 and terms that are lower than or more favorable than the prices and terms that the
40 county telephone line or system or the affiliated entity would offer to or charge an
41 unaffiliated third party for such a transaction.

42 7. Nothing in this section requires a county telephone line or system to offer
43 any services to or engage in any transaction with an affiliated entity or an
44 unaffiliated third party.

45 8. Except as otherwise provided in subsections 4 and 6, nothing in this section
46 vests jurisdiction over a county telephone line or system in the Public Utilities
47 Commission of Nevada.

48 9. It is expressly provided that no general or other statute shall limit or restrict
49 the conduct and carrying on of the business of a county telephone line or system by
50 the board of county commissioners except as specifically set forth in this section
51 and NRS 710.145.

10. As used in this section, "affiliated entity" means any entity that is owned, operated or controlled by the same county that owns, operates or controls the county telephone line or system.

Sec. 66. NRS 710.145 is hereby amended to read as follows:

710.145 1. Notwithstanding the provisions of any other statute, a county telephone line or system may extend its communication services outside the territorial boundaries of the county if:

(a) The services are not within the scope of activities regulated pursuant to chapter 704 of NRS and the county telephone line or system complies with the provisions of subsection 6 of NRS 710.140;

(b) The ~~Public Utilities Commission of Nevada has, pursuant to subsection 3 of NRS 704.040, determined that the~~ services are *extended into an area served by one or more* competitive ~~for discretionary and that regulation thereof is unnecessary;~~ *suppliers regulated pursuant to sections 18 to 30, inclusive, of this act;* or

(c) The Public Utilities Commission of Nevada has, in an action commenced under NRS 704.330 and after 20 days' notice to all telephone utilities providing service in the county into which the extension is to be made, determined that no other telephone service can reasonably serve the area into which the extension is to be made and approves the extension of the system. No such extension may be permitted for a distance of more than 10 miles.

2. If, after October 1, 2005, a county telephone line or system provides any communication services pursuant to paragraph (b) or (c) of subsection 1 outside the territorial boundaries of the county, the county telephone line or system shall:

(a) With regard to the facilities and property it maintains outside the territorial boundaries of the county, comply with the same federal, state and local requirements that would apply to a privately held company providing the same communication services; and

(b) With regard to the provision of such services outside the territorial boundaries of the county, comply with any regulations and rules of the Public Utilities Commission of Nevada that would apply to a privately held company providing the same communication services.

3. If a county telephone line or system and an affiliated entity engage in any transaction to provide communication services outside the territorial boundaries of the county, the Public Utilities Commission of Nevada has jurisdiction over such a transaction to the extent necessary to enforce this section and NRS 710.140.

4. Nothing in this section requires a county telephone line or system to offer any services to or engage in any transaction with an affiliated entity or an unaffiliated third party.

5. Except as otherwise provided in subsections 1, 2 and 3, nothing in this section vests jurisdiction over a county telephone line or system in the Public Utilities Commission of Nevada.

6. As used in this section, "affiliated entity" has the meaning ascribed to it in NRS 710.140.

Sec. 67. NRS 710.147 is hereby amended to read as follows:

710.147 1. The governing body of a county whose population is 50,000 or more:

(a) Shall not sell ~~telecommunications~~ *telecommunication* service to the general public.

(b) May purchase or construct facilities for providing ~~telecommunications~~ *telecommunication* that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

2. Any information relating to the study conducted pursuant to subsection 1 must be maintained by the county clerk and made available for public inspection during the business hours of the office of the county clerk.

3. Notwithstanding the provisions of paragraph (a) of subsection 1, an airport may sell ~~telecommunications~~ **telecommunication** service to the general public.

4. As used in this section:

(a) ~~“Telecommunications”~~ **“Telecommunication”** has the meaning ascribed to it in ~~[47 U.S.C. § 153(43), as that section existed on July 16, 1997.]~~

~~“(b) “Telecommunications” section 11 of this act.~~

~~(b) “Telecommunication service” has the meaning ascribed to it in [47 U.S.C. § 153(46), as that section existed on July 16, 1997.] section 13 of this act.~~

Sec. 68. NRS 711.190 is hereby amended to read as follows:

711.190 1. Except as otherwise provided in NRS 318.1194:

(a) A city may grant a franchise to a community antenna television company for the construction, maintenance and operation of a community antenna television system which requires the use of city property or that portion of the city dedicated to public use for the maintenance of cables or wires underground, on the surface or on poles for the transmission of a television picture.

(b) A county may grant a franchise to a community antenna television company for the construction, maintenance and operation of a community antenna television system which requires the use of the property of the county or any town in the county or that portion of the county or town dedicated to public use for the maintenance of cables or wires underground, on the surface or on poles for the transmission of a television picture.

2. If a local government grants a franchise to two or more community antenna television companies to construct, maintain or operate a community antenna television system in the same area, the local government shall impose the same terms and conditions on each franchise and shall enforce those terms and conditions in a nondiscriminatory manner.

3. A community antenna television company that is granted a franchise pursuant to this chapter may provide ~~telecommunications~~ **telecommunication** service or interactive computer service without obtaining a separate franchise from the local government.

4. A local government that grants a franchise pursuant to this chapter shall not require the community antenna television company to place its facilities in ducts or conduits or on poles owned or leased by the local government.

5. If a county whose population is 400,000 or more, or an incorporated city located in whole or in part within such a county, grants a franchise pursuant to this chapter, the term of the franchise must be at least 10 years. If a franchisee notifies such a county or city on or before the end of the eighth year of a franchise that it wishes to extend the franchise, the county or city shall, on or before the end of the ninth year of the franchise, grant an extension of 5 years on the same terms and conditions, unless the franchisee has not substantially complied with the terms and conditions of the franchise agreement.

6. As used in this section:

(a) “Interactive computer service” has the meaning ascribed to it in 47 U.S.C. § ~~[230(e)(2),] 230(f)(2)~~, as that section existed on ~~July 16, 1997.~~

~~“(b) “Telecommunications” January 1, 2007.~~

~~(b) “Telecommunication service” has the meaning ascribed to it in [47 U.S.C. § 153(46), as that section existed on July 16, 1997.] section 13 of this act.~~

Sec. 69. NRS 268.086 is hereby amended to read as follows:

268.086 1. The governing body of an incorporated city whose population is 25,000 or more:

(a) Shall not sell ~~telecommunications~~ *telecommunication* service to the general public.

(b) May purchase or construct facilities for providing ~~telecommunications~~ *telecommunication* that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

2. Any information relating to the study conducted pursuant to subsection 1 must be maintained by the city clerk and made available for public inspection during the business hours of the office of the city clerk.

3. Notwithstanding the provisions of paragraph (a) of subsection 1, an airport may sell ~~telecommunications~~ *telecommunication* service to the general public.

4. As used in this section:

(a) ~~“Telecommunications”~~ *“Telecommunication”* has the meaning ascribed to it in ~~[47 U.S.C. § 153(43), as that section existed on July 16, 1997.]~~

~~—(b) “Telecommunications” section 11 of this act.~~

~~(b) “Telecommunication service” has the meaning ascribed to it in [47 U.S.C. § 153(46), as that section existed on July 16, 1997.] section 13 of this act.~~

Sec. 70. NRS 268.088 is hereby amended to read as follows:

268.088 The governing body of an incorporated city shall not:

1. Impose any terms or conditions on a franchise for the provision of ~~telecommunications~~ *telecommunication* service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

2. Require a company that provides ~~telecommunications~~ *telecommunication* service or interactive computer service to obtain a franchise if it provides ~~telecommunications~~ *telecommunication* service over the telephone or telegraph lines owned by another company.

3. Require a person who holds a franchise for the provision of ~~telecommunications~~ *telecommunication* service to place its facilities in ducts or conduits or on poles owned or leased by the city.

4. As used in this section:

(a) “Interactive computer service” has the meaning ascribed to it in 47 U.S.C. § ~~[230(e)(2),] 230(f)(2)~~, as that section existed on ~~[July 16, 1997.]~~

~~—(b) “Telecommunications” January 1, 2007.~~

~~(b) “Telecommunication service” has the meaning ascribed to it in [47 U.S.C. § 153(46), as that section existed on July 16, 1997.] section 13 of this act.~~

Sec. 71. NRS 360.820 is hereby amended to read as follows:

360.820 ~~“Telecommunications”~~ *“Telecommunication service”* has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 1, 2003.] section 13 of this act.~~

Sec. 72. NRS 360.825 is hereby amended to read as follows:

360.825 1. Except as otherwise provided in this section, if on or after July 1, 2003, a local government acquires from another entity a public utility that provides electric service, natural gas service, ~~telecommunications~~ *telecommunication* service or community antenna television service:

(a) The local government shall make payments in lieu of and equal to all state and local taxes and franchise fees from which the local government is exempt but

1 for which the public utility would be liable if the public utility was not owned by a
2 governmental entity; and

3 (b) The Nevada Tax Commission shall, solely for the purpose set forth in this
4 paragraph, annually determine and apportion the assessed valuation of the property
5 of the public utility. For the purpose of calculating any allocation or apportionment
6 of money for distribution among local governments pursuant to a formula required
7 by state law which is based partially or entirely on the assessed valuation of taxable
8 property:

9 (1) The property of the public utility shall be deemed to constitute taxable
10 property to the same extent as if the public utility was not owned by a governmental
11 entity; and

12 (2) To the extent that the property of the public utility is deemed to
13 constitute taxable property pursuant to this paragraph:

14 (I) The assessed valuation of that property must be included in that
15 calculation as determined and apportioned by the Nevada Tax Commission
16 pursuant to this paragraph; and

17 (II) The payments required by paragraph (a) in lieu of any taxes that
18 would otherwise be required on the basis of the assessed valuation of that property
19 shall be deemed to constitute payments of those taxes.

20 2. The payments in lieu of taxes and franchise fees required by subsection 1
21 are due at the same time and must be collected, accounted for and distributed in the
22 same manner as those taxes and franchise fees would be due, collected, accounted
23 for and distributed if the public utility was not owned by a governmental entity,
24 except that no lien attaches upon any property or money of the local government by
25 virtue of any failure to make all or any part of those payments. The local
26 government may contest the validity and amount of any payment in lieu of a tax or
27 franchise fee to the same extent as if that payment was a payment of the tax or
28 franchise fee itself. The payments in lieu of taxes and franchise fees must be
29 reduced if and to the extent that such a contest is successful.

30 3. The provisions of this section do not:

31 (a) Apply to the acquisition by a local government of a public utility owned by
32 another governmental entity, except a public utility owned by another local
33 government for which any payments in lieu of state or local taxes or franchise fees
34 was required before its acquisition as provided in this section.

35 (b) Require a local government to make any payments in lieu of taxes or
36 franchise fees to the extent that the making of those payments would cause a
37 deficiency in the money available to the local government to make required
38 payments of principal of, premium, if any, or interest on any bonds or other
39 securities issued to finance the acquisition of that public utility or to make required
40 payments to any funds established under the proceedings under which those bonds
41 or other securities were issued.

42 (c) Require a county to duplicate any payments in lieu of taxes required
43 pursuant to NRS 244A.755.

44 **Sec. 73.** NRS 360.830 is hereby amended to read as follows:

45 360.830 1. Except as otherwise provided in this section, if on or after July 1,
46 2003, a local government:

47 (a) Acquires from another entity a public utility that provides water service or
48 sewer service; or

49 (b) Expands facilities for the provision of water service, sewer service, electric
50 service, natural gas service, ~~telecommunications~~ telecommunication service or
51 community antenna television service, and the expansion results in the local
52 government serving additional retail customers who were, before the expansion,
53 retail customers of a public utility which provided that service,

the local government shall enter into an interlocal agreement with each affected local government to compensate the affected local government each fiscal year, as nearly as practicable, for the amount of any money from state and local taxes and franchise fees and from payments in lieu of those taxes and franchise fees, and for any compensation from a local government pursuant to this section, the affected local government would be entitled to receive but will not receive because of the acquisition of that public utility or expansion of those facilities as provided in this section.

2. An affected local government may waive any or all of the compensation to which it may be entitled pursuant to subsection 1.

3. The provisions of this section do not require a:

(a) Local government to provide any compensation to an affected local government to the extent that the provision of that compensation would cause a deficiency in the money available to the local government to make required payments of principal of, premium, if any, or interest on any bonds or other securities issued to finance the acquisition of that public utility or expansion of those facilities, or to make required payments to any funds established under the proceedings under which those bonds or other securities were issued.

(b) County to duplicate any compensation an affected local government receives from any payments in lieu of taxes required pursuant to NRS 244A.755.

Sec. 74. NRS 598.9682 is hereby amended to read as follows:

598.9682 "Provider" means:

1. A ~~person who is in the business of providing a telecommunications service;~~ **telecommunication provider as defined in section 12 of this act;**

2. An agent, employee, independent contractor or representative of **such a** ~~person who is in the business of providing a telecommunications service;~~ **telecommunication provider;** or

3. A person who originates a charge for a ~~telecommunications~~ **telecommunication** service and directly or indirectly bills a customer for the charge.

Sec. 75. NRS 598.9684 is hereby amended to read as follows:

598.9684 ~~["Telecommunications service" means a service that is designed or has the capability to generate, process, store, retrieve, convey, emit, transmit, receive, relay, record or reproduce any data, information, image, program, signal or sound over a communications system or network, including, without limitation, a communications system or network that uses analog, digital, electronic, electromagnetic, magnetic or optical technology.] "Telecommunication service" has the meaning ascribed to it in section 13 of this act.~~

Sec. 76. NRS 598.969 is hereby amended to read as follows:

598.969 A provider shall not:

1. Make a statement or representation regarding the provision of a ~~telecommunications~~ **telecommunication** service, including, without limitation, a statement regarding the rates, terms or conditions of a ~~telecommunications~~ **telecommunication** service, that:

(a) Is false, misleading or deceptive; or

(b) Fails to include material information which makes the statement or representation false, misleading or deceptive.

2. Misrepresent his identity.

3. Falsely state to a person that the person has subscribed or authorized a subscription to or has received a ~~telecommunications~~ **telecommunication** service.

4. Omit, when explaining the terms and conditions of a subscription to a ~~telecommunications~~ **telecommunication** service, a material fact concerning the subscription.

5. Fail to provide a customer with timely written notice containing:
(a) A clear and detailed description relating directly to the services for which the customer is being billed and the amount the customer is being charged for each service;

(b) All terms and conditions relating directly to the services provided; and

(c) The name, address and telephone number of the provider.

6. Fail to honor, within a reasonable period, a request of a customer to cancel a ~~telecommunications~~ telecommunication service pursuant to the terms and conditions for the service.

7. Bill a customer for a ~~telecommunications~~ telecommunication service after the customer has cancelled the ~~telecommunications~~ telecommunication service pursuant to the terms and conditions of the service.

8. Bill a customer for services that the provider knows the customer has not authorized, unless the service is required to be provided by law. The failure of a customer to refuse a proposal from a provider does not constitute specific authorization.

9. Change a customer's subscription to a local exchange carrier or an interexchange carrier unless:

(a) The customer has authorized the change within the 30 days immediately preceding the date of the change; and

(b) The provider complies with the provisions of 47 U.S.C. § 258, as amended, and the verification procedures set forth in 47 C.F.R. part 64, subpart K, as amended.

10. Fail to provide to a customer who has authorized the provider to change his subscription to a local exchange carrier or an interexchange carrier a written confirmation of the change within 30 days after the date of the change.

11. Propose or enter into a contract with a person that purports to:

(a) Waive the protection afforded to the person by any provision of this section; or

(b) Authorize the provider or an agent, employee, independent contractor or representative of the provider to violate any provision of this section.

Sec. 77. NRS 598.9691 is hereby amended to read as follows:

598.9691 The Public Utilities Commission of Nevada may adopt regulations governing the disclosures that must be made by a provider to a customer before the customer may be charged for a ~~telecommunications~~ telecommunication service.

Sec. 78. Section 2.270 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, as last amended by chapter 416, Statutes of Nevada 2001, at page 2096, is hereby amended to read as follows:

Sec. 2.270 Power of Board: Provision of utilities.

1. Except as otherwise provided in subsection 2 and section 2.272, the Board may:

(a) Provide, by contract, franchise or public enterprise, for any utility to be furnished to Carson City or the residents thereof.

(b) Provide for the construction of any facility necessary for the provision of such utilities.

(c) Fix the rate to be paid for any utility provided by public enterprise.

(d) Provide that any public utility be authorized, for any purpose or object whatever, to install, operate or use within the city mechanical water meters, or similar mechanical devices, to measure the quantity of water delivered to water users.

2. The Board:

(a) Shall not sell ~~telecommunications~~ telecommunication service to the general public.

(b) May purchase or construct facilities for providing ~~telecommunications~~ *telecommunication* that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

3. Any information relating to the study conducted pursuant to subsection 2 must be maintained by the Clerk and made available for public inspection during the business hours of the Office of the Clerk.

4. Notwithstanding the provisions of paragraph (a) of subsection 2, an airport may sell ~~telecommunications~~ *telecommunication* service to the general public.

5. As used in this section:

(a) ~~“Telecommunications”~~ *“Telecommunication”* has the meaning ascribed to it in ~~[47 U.S.C. § 153(43), as that section existed on July 16, 1997.]~~

~~(b) “Telecommunications”~~ *section 11 of this act.*

(b) *“Telecommunication”* service has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 79. Section 2.272 of the Charter of Carson City, being chapter 565, Statutes of Nevada 1997, at page 2750, is hereby amended to read as follows:

Sec. 2.272 Franchises for the provision of ~~telecommunications~~ *telecommunication* service.

1. The Board shall not:

(a) Impose any terms or conditions on a franchise for the provision of ~~telecommunications~~ *telecommunication* service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~telecommunications~~ *telecommunication* service or interactive computer service to obtain a franchise if it provides ~~telecommunications~~ *telecommunication* service over the telephone or telegraph lines owned by another company.

(c) Require a person who holds a franchise for the provision of ~~telecommunications~~ *telecommunication* service or interactive computer service to place its facilities in ducts or conduits or on poles owned or leased by the City.

2. As used in this section:

(a) “Interactive computer service” has the meaning ascribed to it in 47 U.S.C. § ~~[230(e)(2); 230(f)(2)]~~, as that section existed on ~~[July 16, 1997.]~~

~~(b) “Telecommunications”~~ *January 1, 2007.*

(b) *“Telecommunication”* service has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 80. Section 2.280 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 416, Statutes of Nevada 2001, at page 2098, is hereby amended to read as follows:

Sec. 2.280 Powers of City Council: Provision of utilities.

1. Except as otherwise provided in subsection 2 and section 2.285, the City Council may:

(a) Provide, by contract, franchise or public enterprise, for any utility to be furnished to the City for the residents thereof.

(b) Provide for the construction of any facility necessary for the provision of such utilities.

(c) Fix the rate to be paid for any utility provided by public enterprise. Any charges due for services, facilities or commodities furnished by any utility owned by the City is a lien upon the property to which the service is rendered and must be perfected by filing with the County Recorder of Clark County a statement by the City Clerk of the amount due and unpaid and describing the property subject to the lien. Each such lien must:

(1) Be coequal with the latest lien thereon to secure the payment of general taxes.

(2) Not be subject to extinguishment by the sale of any property on account of the nonpayment of general taxes.

(3) Be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

2. The City Council:

(a) Shall not sell ~~telecommunications~~ **telecommunication** service to the general public.

(b) May purchase or construct facilities for providing ~~telecommunications~~ **telecommunication** that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

3. Any information relating to the study conducted pursuant to subsection 2 must be maintained by the City Clerk and made available for public inspection during the business hours of the Office of the City Clerk.

4. Notwithstanding the provisions of paragraph (a) of subsection 2, an airport may sell ~~telecommunications~~ **telecommunication** service to the general public.

5. As used in this section:

(a) ~~“Telecommunications”~~ **“Telecommunication”** has the meaning ascribed to it in ~~[47 U.S.C. § 153(43), as that section existed on July 16, 1997,~~

~~—(b) “Telecommunications”~~ **section 11 of this act.**

(b) **“Telecommunication”** service has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ **section 13 of this act.**

Sec. 81. Section 2.285 of the Charter of the City of Henderson, being chapter 565, Statutes of Nevada 1997, at page 2752, is hereby amended to read as follows:

Sec. 2.285 Franchises for the provision of ~~telecommunications~~ **telecommunication** service.

1. The City Council shall not:

(a) Impose any terms or conditions on a franchise for the provision of ~~telecommunications~~ **telecommunication** service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~telecommunications~~ **telecommunication** service or interactive computer service to obtain a

franchise if it provides ~~telecommunications~~ *telecommunication* service over the telephone or telegraph lines owned by another company.

(c) Require a person who holds a franchise for the provision of ~~telecommunications~~ *telecommunication* service or interactive computer service to place its facilities in ducts or conduits or on poles owned or leased by the City.

2. As used in this section:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~230(e)(2)~~ *230(f)(2)*, as that section existed on ~~July 16, 1997~~.

~~(b) "Telecommunications" January 1, 2007.~~

~~(b) "Telecommunication service" has the meaning ascribed to it in 47 U.S.C. § 153(46), as that section existed on July 16, 1997.~~ *section 13 of this act.*

Sec. 82. Section 2.300 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 416, Statutes of Nevada 2001, at page 2100, is hereby amended to read as follows:

Sec. 2.300 Powers of City Council: Provision of utilities.

1. Except as otherwise provided in subsection 3 and section 2.315, the City Council may:

(a) Provide, by contract, franchise or public ownership or operation, for any utility to be furnished to the residents of the City.

(b) Provide for the construction and maintenance of any facility which is necessary for the provision of those utilities.

(c) Prescribe, revise and collect rates, fees, tolls and charges, including fees for connection, for the services, facilities or commodities which are furnished by any municipally owned or municipally operated utility or undertaking and no rate, fee, toll or charge for the services, facilities or commodities which are furnished by any municipally owned or municipally operated utility or undertaking may be prescribed, revised, amended, altered, increased or decreased without proceeding as follows:

(1) There must be filed with the City Clerk and available for public inspection schedules of all rates, fees, tolls and charges which the City has established and which are in force at that time for any service which is performed or product which is furnished in connection with any utility which is owned or operated by the City.

(2) No change may be made in any of those schedules except upon 30 days' notice to the inhabitants of the City and the holding of a public hearing with respect to the proposed change. Notice of the proposed change must be given by at least two publications during the 30-day period before the hearing.

(3) At the time which is set for the hearing on the proposed change, any person may appear and be heard and offer any evidence in support of or against the proposed change.

(4) Every utility which is owned or operated by the City shall furnish reasonably adequate service and facilities, and the charges which are made for any service which is or will be rendered, or for any service which is connected with or incidental to any service which is or will be rendered, by the City must be just and reasonable.

2. Any rate, fee, toll or charge, including any fee for connection which is due for services, facilities or commodities which are furnished by the City or by any utility which is owned or operated by the City pursuant to this section is a lien upon the property to which the service is rendered. The lien:

(a) Must be perfected by filing with the County Recorder of the County a statement by the City Clerk in which he states the amount which is due and unpaid and describes the property which is subject to the lien.

(b) Is coequal with the latest lien upon that property to secure the payment of general taxes.

(c) Is not subject to extinguishment by the sale of any property on account of the nonpayment of general taxes.

(d) Is prior and superior to all liens, claims, encumbrances and titles, other than the liens of assessments and general taxes.

(e) May be enforced and foreclosed in such manner as may be prescribed by ordinance.

3. The City Council:

(a) Shall not sell ~~telecommunications~~ *telecommunication* service to the general public.

(b) May purchase or construct facilities for providing ~~telecommunications~~ *telecommunication* that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

4. Any information relating to the study conducted pursuant to subsection 3 must be maintained by the City Clerk and made available for public inspection during the business hours of the Office of the City Clerk.

5. Notwithstanding the provisions of paragraph (a) of subsection 3, an airport may sell ~~telecommunications~~ *telecommunication* service to the general public.

6. As used in this section:

(a) ~~“Telecommunications”~~ *“Telecommunication”* has the meaning ascribed to it in ~~[47 U.S.C. § 153(43), as that section existed on July 16, 1997.]~~

~~—(b) “Telecommunications”~~ *section 11 of this act.*

(b) “Telecommunication service” has the meaning ascribed to it in [47 U.S.C. § 153(46), as that section existed on July 16, 1997.] section 13 of this act.

Sec. 83. Section 2.315 of the Charter of the City of Las Vegas, being chapter 565, Statutes of Nevada 1997, at page 2754, is hereby amended to read as follows:

Sec. 2.315 Franchises for the provision of ~~telecommunications~~ *telecommunication* service.

1. The City Council shall not:

(a) Impose any terms or conditions on a franchise for the provision of ~~telecommunications~~ *telecommunication* service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~telecommunications~~ *telecommunication* service or interactive computer service to obtain a franchise if it provides ~~telecommunications~~ *telecommunication* service over the telephone or telegraph lines owned by another company.

(c) Require a person who holds a franchise for the provision of ~~telecommunications~~ *telecommunication* service or interactive computer

service to place its facilities in ducts or conduits or on poles owned or leased by the City.

2. As used in this section:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~230(e)(2)~~ 230(f)(2), as that section existed on ~~July 16, 1997.~~

~~(b) "Telecommunications" January 1, 2007.~~

(b) "Telecommunication service" has the meaning ascribed to it in ~~47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ **section 13 of this act.**

Sec. 84. Section 2.280 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 416, Statutes of Nevada 2001, at page 2103, is hereby amended to read as follows:

Sec. 2.280 Powers of City Council: Provision of utilities.

1. Except as otherwise provided in subsection 3 and section 2.285, the City Council may:

(a) Provide, by contract, franchise and public enterprise, for any utility to be furnished to the City for residents located within or without the City.

(b) Provide for the construction and maintenance of any facilities necessary for the provision of all such utilities.

(c) Prescribe, revise and collect rates, fees, tolls and charges for the services, facilities or commodities furnished by any municipally operated or municipally owned utility or undertaking. Notwithstanding any provision of this Charter to the contrary or in conflict herewith, no rates, fees, tolls or charges for the services, facilities or commodities furnished by any municipally operated or municipally owned utility or undertaking may be prescribed, revised, amended or altered, increased or decreased, without this procedure first being followed:

(1) There must be filed with the City Clerk schedules of rates, fees, tolls or charges which must be open to public inspection, showing all rates, fees, tolls or charges which the City has established and which are in force at the time for any service performed or product furnished in connection therewith by any utility controlled and operated by the City.

(2) No changes may be made in any schedule so filed with the City Clerk except upon 30 days' notice to the inhabitants of the City and a public hearing held thereon. Notice of the proposed change or changes must be given by at least two publications in a newspaper published in the City during the 30-day period before the hearing thereon.

(3) At the time set for the hearing on the proposed change, any person may appear and be heard and offer any evidence in support of or against the proposed change.

(4) Every utility operated by the City 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.

(d) Provide, by ordinance, for an additional charge to each business customer and for each housing unit within the City to which water is provided by a utility of up to 25 cents per month. If such a charge is provided for, the City Council shall, by ordinance, provide for the expenditure of that money for any purpose relating to the beautification of the City.

2. Any charges due for services, facilities or commodities furnished by the City or by any utility operated by the City pursuant to this section is a lien upon the property to which the service is rendered and must be

perfected by filing with the County Recorder of Clark County of a statement by the City Clerk stating the amount due and unpaid and describing the property subject to the lien. Each such lien must:

(a) Be coequal with the latest lien thereon to secure the payment of general taxes.

(b) Not be subject to extinguishment by the sale of any property on account of the nonpayment of general taxes.

(c) Be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

3. The City Council:

(a) Shall not sell ~~telecommunications~~ *telecommunication* service to the general public.

(b) May purchase or construct facilities for providing ~~telecommunications~~ *telecommunication* that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

4. Any information relating to the study conducted pursuant to subsection 3 must be maintained by the City Clerk and made available for public inspection during the business hours of the Office of the City Clerk.

5. Notwithstanding the provisions of paragraph (a) of subsection 3, an airport may sell ~~telecommunications~~ *telecommunication* service to the general public.

6. As used in this section:

(a) "Housing unit" means a:

(1) Single-family dwelling;

(2) Townhouse, condominium or cooperative apartment;

(3) Unit in a multiple-family dwelling or apartment complex; or

(4) Mobile home.

(b) ~~"Telecommunications"~~ *"Telecommunication"* has the meaning ascribed to it in ~~[47 U.S.C. § 153(43), as that section existed on July 16, 1997,~~

~~—(c) "Telecommunications" section 11 of this act.~~

(c) *"Telecommunication" service* has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.] section 13 of this act.~~

Sec. 85. Section 2.285 of the Charter of the City of North Las Vegas, being chapter 565, Statutes of Nevada 1997, at page 2758, is hereby amended to read as follows:

Sec. 2.285 Franchises for the provision of ~~telecommunications~~ *telecommunication* service.

1. The City Council shall not:

(a) Impose any terms or conditions on a franchise for the provision of ~~telecommunications~~ *telecommunication* service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~telecommunications~~ *telecommunication* service or interactive computer service to obtain a

franchise if it provides ~~telecommunications~~ **telecommunication** service over the telephone or telegraph lines owned by another company.

(c) Require a person who holds a franchise for the provision of ~~telecommunications~~ **telecommunication** service or interactive computer service to place its facilities in ducts or conduits or on poles owned or leased by the City.

2. As used in this section:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~230(e)(2)~~ **230(f)(2)**, as that section existed on ~~July 16, 1997~~.

~~(b) "Telecommunications" January 1, 2007.~~

~~(b) "Telecommunication" service" has the meaning ascribed to it in 47 U.S.C. § 153(46), as that section existed on July 16, 1997.~~ **section 13 of this act.**

Sec. 86. Section 2.140 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 325, Statutes of Nevada 2005, at page 1143, is hereby amended to read as follows:

Sec. 2.140 General powers of City Council.

1. Except as otherwise provided in subsection 2 and section 2.150, the City Council may:

(a) Acquire, control, improve and dispose of any real or personal property for the use of the City, its residents and visitors.

(b) Except as otherwise provided in NRS 598D.150 and 640C.100, regulate and impose a license tax for revenue upon all businesses, trades and professions.

(c) Provide or grant franchises for public transportation and utilities.

(d) Appropriate money for advertising and publicity and for the support of a municipal band.

(e) Enact and enforce any police, fire, traffic, health, sanitary or other measure which does not conflict with the general laws of the State of Nevada. An offense that is made a misdemeanor by the laws of the State of Nevada shall also be deemed to be a misdemeanor against the City whenever the offense is committed within the City.

(f) Fix the rate to be paid for any utility service provided by the City as a public enterprise. Any charges due for services, facilities or commodities furnished by any utility owned by the City is a lien upon the property to which the service is rendered and is perfected by filing with the County Recorder a statement by the City Clerk of the amount due and unpaid and describing the property subject to the lien. Any such lien is:

(1) Coequal with the latest lien upon the property to secure the payment of general taxes.

(2) Not subject to extinguishment by the sale of any property on account of the nonpayment of general taxes.

(3) Prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

2. The City Council:

(a) Shall not sell ~~telecommunications~~ **telecommunication** service to the general public.

(b) May purchase or construct facilities for providing ~~telecommunications~~ **telecommunication** that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

3. Any information relating to the study conducted pursuant to subsection 2 must be maintained by the City Clerk and made available for public inspection during the business hours of the Office of the City Clerk.

4. Notwithstanding the provisions of paragraph (a) of subsection 2, an airport may sell ~~telecommunications~~ *telecommunication* service to the general public.

5. As used in this section:

(a) ~~“Telecommunications”~~ *“Telecommunication”* has the meaning ascribed to it in ~~[47 U.S.C. § 153(43), as that section existed on July 16, 1997.]~~

~~—(b) “Telecommunications” section 11 of this act.~~

(b) *“Telecommunication”* service has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 87. Section 2.150 of the Charter of the City of Reno, being chapter 565, Statutes of Nevada 1997, at page 2761, is hereby amended to read as follows:

Sec. 2.150 Franchises for the provision of ~~telecommunications~~ *telecommunication* service.

1. The City Council shall not:

(a) Impose any terms or conditions on a franchise for the provision of ~~telecommunications~~ *telecommunication* service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~telecommunications~~ *telecommunication* service or interactive computer service to obtain a franchise if it provides ~~telecommunications~~ *telecommunication* service over the telephone or telegraph lines owned by another company.

(c) Require a person who holds a franchise for the provision of ~~telecommunications~~ *telecommunication* service or interactive computer service to place its facilities in ducts or conduits or on poles owned or leased by the City.

2. As used in this section:

(a) “Interactive computer service” has the meaning ascribed to it in 47 U.S.C. § ~~[230(e)(2); 230(f)(2)]~~ *230(f)(2)*, as that section existed on ~~[July 16, 1997.]~~

~~—(b) “Telecommunications” January 1, 2007.~~

(b) *“Telecommunication”* service has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 88. Section 2.110 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 416, Statutes of Nevada 2001, at page 2107, is hereby amended to read as follows:

Sec. 2.110 Powers of City Council: Provisions for utilities.

1. Except as otherwise provided in subsection 2 and section 2.115, the City Council may:

(a) Provide by contract, franchise or public enterprise, for any utility to be furnished to the City for the residents thereof.

(b) Provide for the construction of any facility necessary for the provisions of such utility.

(c) Fix the rate to be paid for any utility provided by public enterprise. Any charges due for services, facilities or commodities furnished by any utility owned by the City is a lien upon the property to which the service is rendered and must be performed by filing with the County Recorder a statement by the City Clerk of the amount due and unpaid and describing the property subject to the lien. Each such lien must:

(1) Be coequal with the latest lien thereon to secure the payment of general taxes.

(2) Not be subject to extinguishment by the sale of any property on account of the nonpayment of general taxes.

(3) Be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

2. The City Council:

(a) Shall not sell ~~{telecommunications}~~ **telecommunication** service to the general public.

(b) May purchase or construct facilities for providing ~~{telecommunications}~~ **telecommunication** that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

3. Any information relating to the study conducted pursuant to subsection 2 must be maintained by the City Clerk and made available for public inspection during the business hours of the Office of the City Clerk.

4. Notwithstanding the provisions of paragraph (a) of subsection 2, an airport may sell ~~{telecommunications}~~ **telecommunication** service to the general public.

5. As used in this section:

(a) ~~{“Telecommunications”}~~ **“Telecommunication”** has the meaning ascribed to it in ~~{47 U.S.C. § 153(43), as that section existed on July 16, 1997.~~

~~—(b) “Telecommunications”~~ **section 11 of this act.**

(b) **“Telecommunication** service” has the meaning ascribed to it in ~~{47 U.S.C. § 153(46), as that section existed on July 16, 1997.}~~ **section 13 of this act.**

Sec. 89. Section 2.115 of the Charter of the City of Sparks, being chapter 565, Statutes of Nevada 1997, at page 2763, is hereby amended to read as follows:

Sec. 2.115 Franchises for the provision of ~~{telecommunications}~~ **telecommunication** service.

1. The City Council shall not:

(a) Impose any terms or conditions on a franchise for the provision of ~~{telecommunications}~~ **telecommunication** service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~{telecommunications}~~ **telecommunication** service or interactive computer service to obtain a franchise if it provides ~~{telecommunications}~~ **telecommunication** service over the telephone or telegraph lines owned by another company.

(c) Require a person who holds a franchise for the provision of ~~{telecommunications}~~ **telecommunication** service or interactive computer

service to place its facilities in ducts or conduits or on poles owned or leased by the City.

2. As used in this section:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~230(e)(2)~~ 230(f)(2), as that section existed on ~~July 16, 1997~~.

~~(b) "Telecommunications" January 1, 2007.~~

~~(b) "Telecommunication service" has the meaning ascribed to it in 47 U.S.C. § 153(46), as that section existed on July 16, 1997.] section 13 of this act.~~

Sec. 90. NRS 704.68904, 704.68908, 704.6891, 704.68912, 704.68916, 704.6892, 704.68922, 704.68924, 704.68928, 704.68932, 704.68936, 704.6894, 704.68942, 704.68944, 704.68946, 704.68947, 704.68948, 704.68952, 704.68956, 704.6896, 704.68964, 704.68966, 704.68968, 704.68972, 704.68976, 704.6898 and 704.68984 are hereby repealed.

Sec. 91. 1. The Public Utilities Commission of Nevada shall:

(a) On or before December 31, 2007, repeal any regulations which the Commission has adopted pursuant to NRS 704.68904 to 704.68984, inclusive, and any other regulations which are inconsistent with this act; and

(b) Except as otherwise provided in subsections 2 and 3, on or before July 1, 2008, adopt any regulations which are required by or necessary to carry out the provisions of this act.

2. Notwithstanding any other provision of this act:

(a) In carrying out the provisions of NRS 704.6873, as amended by this act, the Commission shall:

(1) Commence a regulatory proceeding to establish the eligibility requirements for competitive suppliers that are providers of last resort to apply to receive payments from the fund to maintain the availability of telephone service based on the need of such competitive suppliers for funding to maintain the availability of telephone service to rural, insular and high-cost areas; and

(2) Conclude that regulatory proceeding and establish the eligibility requirements not later than January 1, 2009.

(b) Except for a small-scale provider of last resort, a competitive supplier that is a provider of last resort:

(1) May not apply to receive payments from the fund to maintain the availability of telephone service until the Commission has completed the regulatory proceeding required by this subsection; and

(2) Is not eligible to receive payments from the fund to maintain the availability of telephone service unless the competitive supplier meets the eligibility requirements established by the Commission in the regulatory proceeding required by this subsection.

3. Notwithstanding any other provision of this act, the Commission shall:

(a) As soon as reasonably practicable, commence a regulatory proceeding to adopt the regulations required by section 15 of this act; and

(b) Conclude that regulatory proceeding and adopt those regulations not later than March 1, 2008.

4. As used in this section, unless the context otherwise requires, the words and terms defined in NRS 704.007 to 704.030, inclusive, and sections 2 to 13, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 92. This act becomes effective upon passage and approval.

LEADLINES OF REPEALED SECTIONS

- 704.68904 Definitions.
- 704.68908 "Affected person" defined.
- 704.6891 "Affiliate of an incumbent local exchange carrier" and "affiliate" defined.
- 704.68912 "Basic network service" defined.
- 704.68916 "Competitive service" defined.
- 704.6892 "Competitive supplier" defined.
- 704.68922 "Deregulated service" defined.
- 704.68924 "Discretionary service" defined.
- 704.68928 "Electing PAR carrier" defined.
- 704.68932 "Incumbent local exchange carrier" defined.
- 704.68936 "Local area of transport and access" or "LATA" defined.
- 704.6894 "Other essential service" defined.
- 704.68942 "PAR carrier" defined.
- 704.68944 "Price floor" defined.
- 704.68946 "Telecommunication" defined.
- 704.68947 "Telecommunication service" defined.
- 704.68948 Authority of PAR carrier to become electing PAR carrier for purposes of regulation; procedure for making election.
- 704.68952 Regulation of electing PAR carrier: Limitations on power of Commission regarding earnings and rates; termination and continuation of plan of alternative regulation; limitations on receipt of money from fund created pursuant to NRS 704.040.
- 704.68956 Regulation of electing PAR carrier: Approval of Commission required to discontinue or change terms and conditions relating to provision of certain basic network services.
- 704.6896 Reclassification of basic network services: Authority of Commission; adoption of criteria for reclassification; period for acting on request for reclassification from PAR carrier.
- 704.68964 Flexibility in pricing and terms of services: Authority of PAR carrier; procedure and requirements for exercising flexibility; PAR carrier permitted to bill customer using fixed price or amount for package of services.
- 704.68966 Flexibility in pricing and terms of services: Prohibition against anticompetitive acts and practices and unreasonable discrimination among similarly situated customers.
- 704.68968 Promotional price reductions: Notice; duration; geographic area; nondiscriminatory basis.
- 704.68972 Introduction of new services: Notice; conditions; exemption from certain regulations of Commission; classification; price.
- 704.68976 Rates for services to be averaged geographically; exception.
- 704.6898 Intrastate access prices: Maximum amount; offset of reductions.
- 704.68984 Powers and duties of Commission and PAR carriers under certain federal and state laws preserved.