

**FRANCHISES FOR STREET RAILWAY, ELECTRIC LIGHT, HEAT, POWER, GAS,
WATER, TELEPHONE AND TELEGRAPH IN COUNTIES AND UNINCORPORATED
TOWNS**

NRS 709.050 Power of county commissioners to grant certain franchises; limitation; "interactive computer service," "street railway" and "telecommunication service" defined.

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

2. The board of county commissioners shall not:

(a) Impose any terms or conditions on a franchise granted pursuant to subsection 1 for the provision of telecommunications 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 service or interactive computer service to obtain a franchise if it provides telecommunications service over the telephone or telegraph lines owned by another company.

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), as that section existed on July 16, 1997.

(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 service" has the meaning ascribed to it in 47 U.S.C. §§ 153(46), as that section existed on July 16, 1997.

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

[1:168:1909; RL §§ 2129; NCL §§ 3183]-(NRS A 1985, 319; 1991, 1139; 1997, 2445, 2746; 1999, 556)

NRS 709.060 Application for franchise: Contents; franchise limited to 25 years. Any person, company, corporation or association desiring a franchise, right or privilege for any purpose specified in NRS 709.050 must file with the board of county commissioners of the county wherein the franchise, right or privilege is to be exercised an application in writing, which contains:

1. The name of the applicant and the time for which the franchise, right or privilege is desired, not exceeding 25 years.

2. The places where the franchise, right or privilege is to be exercised and, if in any unincorporated town, the streets, avenues, alleys and other places through, over, under or along which the franchise, right or privilege is sought.

3. If the application is for a street railway, it must designate the route of the proposed line in the county, and specify the width of ground desired to be included in its right of way.

4. A map or plat correctly showing and delineating, so far as practicable, the proposed route or right of way of any street railway, light, heat or power, telegraph or telephone lines, and the places where gas or water mains are to be laid or installed.

[2:168:1909; RL §§ 2130; NCL §§ 3184]-(NRS A 1985, 319)

NRS 709.070 Notice of filing of application; contents; publication and posting.

1. Upon the filing of the application, the board of county commissioners shall, at its next regular meeting, cause notice of the application to be given. Before notice is given, the applicant must deposit with the clerk of the board the cost of publication of the notice, the amount to be fixed by the board of county commissioners.

2. The notice must contain:

(a) The name of the person or persons making the application.

(b) The nature, in general terms, of the franchise, right or privilege applied for.

(c) The day when the hearing upon the application will be held.

(d) A statement that all persons who have any objections to the granting of the franchise, right or privilege must file their objections, in writing, with the clerk of the board before the date of the hearing, or must appear at the meeting and present their objections at that time.

3. The notice must be published once each week for 4 consecutive weeks in a newspaper of general circulation published in the county. If no newspaper is published in the county, notice must be given by the posting of notices as provided in this section.

4. The clerk shall also cause three copies of the notice to be posted in three public places nearest where the application will take effect, and if more than one unincorporated town is affected, the notice must be posted in three public places in each of the unincorporated towns.

5. The publication or posting of the notice must be completed:

(a) Before the next regular meeting of the board of county commissioners at which the application is considered; or

(b) At least 10 days before a hearing on the application is held.

6. Proof of the notice must be made by the clerk of the board before the hearing in the matter proceeds, and the proof must become a part of the record of the proceedings.

[3:168:1909; A 1915, 78; 1919 RL §§ 2131; NCL §§ 3185]-(NRS A 1985, 319; 1987, 2236)

NRS 709.080 Hearing: Presentation of objections; adjournment.

1. On the day specified in the notice for the hearing thereof, or at the next regular meeting of the board of county commissioners thereafter, all objections to the granting of such franchise shall be presented to the board of the county commissioners.

2. The board shall proceed at once with the consideration of the application, but may adjourn the hearing from time to time, not exceeding in all 30 days, until a final decision is reached.

[4:168:1909; RL §§ 2132; NCL §§ 3186]

NRS 709.090 Granting of franchise: Terms and conditions. If, upon full consideration of all the facts, the board of county commissioners determines that the granting of the franchise is in the best interests of the residents of the county, the board shall, except as otherwise provided in subsection 2 of NRS 709.050, fix the terms and prescribe the conditions pursuant to which the franchise is to be granted, the character or kinds of service to be rendered, the maximum rates to be charged for the service, and such other matters as may be properly connected therewith, and shall thereupon grant the franchise subject to such terms and conditions.

[5:168:1909; RL §§ 2133; NCL §§ 3187]-(NRS A 1987, 2237; 1997, 2747)

NRS 709.100 Undertaking by holder of franchise guaranteeing commencement of construction within 60 days from date of award of franchise. The board of the county commissioners, at the time of granting any such authority, franchise and right of way, shall require the applicant to enter into an undertaking to the county in a sum to be determined by the board of county commissioners, with surety or sureties approved by the board, conditioned that the applicant shall commence active construction of such telephone, telegraph, light, heat or power lines, the laying of gas or water mains, or such streetcar system, for which such franchise, right or privilege is granted, within 60 days from the date of the granting of the franchise, right or privilege, and prosecute the construction thereof to completion with due diligence; and, failing to comply with the conditions of such undertaking, shall pay into the treasury of the county to which such undertaking is given the sum of money mentioned therein and forfeit all rights to such franchise, right or privilege.

[6:168:1909; RL §§ 2134; NCL §§ 3188]

NRS 709.110 Agreement to pay annually 2 percent of net profits for benefit of county school district fund. Every applicant for a franchise for any of the purposes mentioned in NRS 709.050 shall, within 10 days after such franchise is granted, file with the county recorder of such county an agreement properly executed by the grantee of such franchise, right or privilege to pay annually on the 1st Monday of July of each year to the county treasurer of the county wherein such franchise, right or privilege is to be exercised, for the benefit of the county school district fund, 2 percent of the net profits made by such grantee in the operation of any public utility for which such franchise is granted. No power, function, right or privilege shall be exercised until such agreement shall be filed.

[7:168:1909; RL §§ 2135; NCL §§ 3189]

NRS 709.120 Affidavit filed annually with county treasurer concerning gross receipts, expenses and net profits. The grantee of any franchise, right or privilege secured under the terms and provisions of NRS 709.050 to 709.170, inclusive, shall file annually, on or before the first Monday of March, with the county treasurer of the county wherein it is engaged in business under such franchise, right or privilege, an affidavit made by its president and secretary setting forth the gross receipts and expenses for the preceding year, and the net profits, if any, for the same period.

[8:168:1909; RL §§ 2136; NCL §§ 3190]-(NRS A 1997, 1589)

NRS 709.130 Specifications of plant, poles and wires; maintenance and repair of equipment; location of poles, wires and other appurtenances; exclusive franchise prohibited.

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 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.

[9:168:1909; RL §§ 2137; NCL §§ 3191]-(NRS A 1997, 2747)

NRS 709.140 Condemnation of property; liability of holder of franchise for damage to property.

1. Except as otherwise provided in subsection 2, if the owner of any real property upon or over which the proposed line of the grantee of the franchise is to run objects to the use of his property for that purpose, the land reasonably necessary therefor may be condemned in the manner prescribed by law for the condemnation of land for public use, in a proceeding brought for the purpose by the grantee of the franchise.

2. Real property reasonably necessary for the proposed line of a grantee of a franchise for a street railway may be condemned in the manner prescribed by law for the condemnation of land for public use in a proceeding brought for that purpose by the grantor of the franchise.

3. If any property, real or personal, abutting or adjacent to the line of the right of way of the franchise is injured or damaged by the running or operation of the line under the franchise, the grantee of the franchise is liable in an action at law for all such injuries and damages caused by the negligence of the grantee.

[10:168:1909; RL §§ 2138; NCL §§ 3192]-(NRS A 1991, 1140)

NRS 709.145 Public utilities commission of Nevada may contract to provide services for certain water companies exempt from regulation by commission.

1. Any political subdivision of the State of Nevada which operates or controls a water company, or the board of county commissioners of any county from which a franchise has been obtained, pursuant to NRS 709.050 to 709.170, inclusive, by a water company exempt from regulation by the public utilities commission of Nevada, may contract with the public utilities commission of Nevada for rate determination assistance, engineering services or financing advice concerning that water company.

2. Any such contract does not divest a political subdivision or a board of county commissioners of any of its jurisdiction over that water company.

3. The public utilities commission of Nevada may charge a reasonable fee for those services.

(Added to NRS by 1973, 1133; A 1987, 737; 1997, 1958)

NRS 709.146 Inspection of books and records of water company holding franchise and exempt from regulation by public utilities commission of Nevada. Any water company exempt from regulation by the public utilities commission of Nevada and franchised pursuant to NRS 709.050 to 709.170, inclusive, shall, upon request by the board of county commissioners of the county from which such water company obtained its franchise, produce its books and records for inspection by such board of county commissioners, or the public utilities commission.

(Added to NRS by 1973, 1134; A 1997, 1958)

NRS 709.150 Privileges and benefits of NRS 709.050 to 709.170, inclusive, conferred on holder of franchise pursuant to other laws: Conditions.

1. All persons, companies, associations or corporations in the business of conducting street railways, telephone, telegraph, electric light and power lines, gas or water mains in any of the cities, towns or places mentioned in NRS 709.050 to 709.170, inclusive, under the provisions of any other law providing for the granting of such franchises, and who or which has not fully complied with the provisions of the law under which his, her, their or its franchise was obtained, may, nevertheless, have and enjoy all the privileges and benefits of NRS 709.050 to 709.170, inclusive, if such person, company, association or corporation shall, within 6 months after March 23, 1909, file in the office of the secretary of state, and in the office of the county recorder of the county in which such person, company, corporation or association maintains its principal office or place of business, a duly executed and acknowledged acceptance of the terms, conditions and provisions of NRS 709.050 to 709.170, inclusive, which acceptance, in case of a corporation, shall be evidenced by a duly attested or certified copy of a resolution of its board of directors.

2. Nothing contained in this section shall be construed to relieve any such person, company, association or corporation of any duty or obligation provided in any law or contained in any franchise under which any person, company, association or corporation is operating on March 23, 1909.

[11:168:1909; RL §§ 2139; NCL §§ 3193]

NRS 709.160 Regulation of utilities by public utilities commission of Nevada. Nothing contained in NRS 709.050 to 709.170, inclusive, must be so construed as to deprive the public utilities commission of Nevada

of full power to regulate and control, as prescribed by law, the service, practices, regulations and charges, subject to the maximum charges fixed by the board of county commissioners upon granting the franchise, and subject also to the provisions of NRS 709.110, of all utilities receiving franchises as provided in NRS 709.050 to 709.170, inclusive.

[Part 12:168:1909; RL §§ 2140; NCL §§ 3194]-(NRS A 1997, 1958)

NRS 709.170 NRS 709.010 to 709.040, inclusive, not affected. NRS 709.050 to 709.170, inclusive, shall not be construed in any way to repeal any portion of NRS 709.010 to 709.040, inclusive.

[13:168:1909; RL §§ 2141; NCL §§ 3195]