

Item #15

**Carson City
Agenda Report**

Date Submitted: October 25, 2008

Agenda Date Requested: November 6, 2008

Time Requested: 1 hour

To: Mayor and Supervisors

From: City Manager

Subject Title: Presentation by Nevada Energy on the Saliman Road Power Line and possible action regarding the alignment and configuration.

Staff Summary: Nevada Energy is proposing a new overhead power line from Fairview Drive to Koontz Lane along the east side of Saliman Road. The adjacent neighborhood would like the line either moved to a different location or placed underground. The power company franchise with the City limits the City's ability to direct the relocation of the line or to have the power line placed underground unless the City or the adjacent property owners bear the cost difference.

Type of Action Requested: (check one)

☐ Resolution

☐ Ordinance

☒ Formal Action/Motion

☐ Other (Specify)

Does This Action Require A Business Impact Statement: ☐ Yes ☒ No

Recommended Board Action: Action depends upon presentation and discussion.

Explanation for Recommended Board Action: See staff summary.

Applicable Statue, Code, Policy, Rule or Regulation: CCMC Chapter 5.06 Sierra Pacific Power Company; NRS 704A Facilities Placed Underground

Fiscal Impact: Not known at this time.

Explanation of Impact: At this stage, there is no impact to the City. Board action, depending upon the nature of the action, could cause an impact.

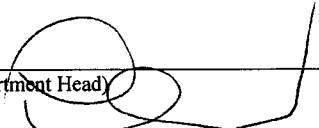
Funding Source: N/A

Alternatives: N/A

Supporting Material: CCMC Chapter 5.06 and NRS 704A

Prepared By: Lawrence A. Werner, P.E., P.L.S., Director/City Engineer

Reviewed By:


(Department Head)

Date: _____

(City Manager)

Date: 10-28-08


(District Attorney)

Date: 10-28-08


(Finance Director)

Date: 10-28-08

Board Action Taken:

Motion: _____

1) _____

Aye/Nay

2) _____

(Vote Recorded By)

Title 5 PUBLIC UTILITY FRANCHISES AND REQUIREMENTS

Chapter 5.06 SIERRA PACIFIC POWER COMPANY

5.06.010 Enactment of urban district franchise.

5.06.020 Text of franchise.

5.06.010 Enactment of urban district franchise.

The franchise agreement entered into between Carson City and Sierra Pacific Power Company appearing herein as Section 5.06.020, relating to the urban district only, is hereby enacted into law.

5.06.020 Text of franchise.

“1. Sierra Pacific Power Company, a Nevada corporation, its successors and assigns, (Franchisee) is hereby granted by Carson City a franchise and rights of way upon, over, under, across and along the streets, alleys and public grounds, of Carson City, Nevada, for its or their use for the purpose of erecting, constructing and maintaining all necessary, appropriate or convenient poles, pole lines, posts, wires, transformers, guy wires, conduits, underground and otherwise, apparatus and appliances, in order to properly, successfully and conveniently construct, extend, maintain and operate an electric power transmission and distribution system or generating plant, or both, in Carson City, Nevada, for a period of THIRTY (30) years from the date of passage of this ordinance.

“2. Sierra Pacific Power Company shall provide the reasonable and necessary plant with all necessary appurtenances of approved construction for the full performance of its franchise duties, right and obligations under this franchise, and Sierra Pacific Power Company shall keep such plants and appurtenances, including all poles, wires, and other attachments, in good repair and all poles, towers and other superstructures shall be so placed as not to interfere with the passage of persons or vehicles or the safety of persons or property.

“3. All electric power lines which shall be constructed and used under and pursuant to the provisions of this franchise and in the exercise hereof shall be installed, constructed and maintained in a good and workmanlike manner and shall be maintained in compliance with all valid laws and ordinances from time to time in force, and upon such terms as may be provided by the Board of Supervisors which are not inconsistent with the laws of the State of Nevada, and the orders, rules and regulations of the Public Utilities Commission of the State of Nevada. Prior to planned major construction of any power lines smaller than 120 kV in size, or appurtenances thereto, grantee shall notify the City Engineer and shall obtain a construction permit. Major construction is defined as an overhead circuit with a capacity greater than eight (8) MVA and a length greater than one (1) thousand feet. Prior to major construction of new electric power lines and appurtenances equal to or larger than 120 kV in size, or extension or relocation

of such facilities already in existence, grantee shall obtain a construction permit from the City Engineer stating that the proposed construction, extension or relocation meets with official standards established by the City for the appearance, location and safety of such facilities, and shall obtain any other permits required by City ordinance. For emergency repairs and for minor construction, extension, relocation, or other laying or using of electric power lines, appurtenances, and facilities pursuant to this franchise which require a street cut, Franchisee shall notify Carson City within a reasonable period of time subsequent to the completion of such work, normally two (2) business days, and obtain any required street cutting permits at that time without any penalty for performing work prior to obtaining the required street cutting permit. Within two (2) years of the enactment of this franchise, Franchisee shall propose to Carson City a comprehensive development plan for fulfilling its obligations under the franchise, which plan will be reviewed through the City's master planning process as a proposed element of the Carson City Master Plan. Such comprehensive plan shall include plans for the placement of electrical substations, electric transmission lines of 60 kV and higher voltage and distribution lines of a voltage less than 60 kV with a capacity greater than eight (8) MVA. When the comprehensive plan is approved as an element of the Carson City Master Plan, Franchisee shall not be required to obtain any additional permits from the City for placing any such power lines, appurtenances and facilities included in the master plan element. The Franchisee shall obtain all permits required by City ordinance for any such power lines, appurtenances and facilities not included in the approved master plan element.

"4. When Franchisee has obtained a street cutting permit for purposes of installing, maintaining and using said electric power lines, appurtenances, and facilities or any part thereof, the utility shall in a reasonable period of time, at its own cost and expense, place said public roads, or so much thereof as may have been damaged thereby, in as good order and condition in which they were prior to being disturbed or excavated by the Franchisee and shall otherwise comply with all conditions of the permit.

"5. Franchisee shall have the right of installing, maintaining and using any and all of such electric power lines, appurtenances, and facilities from time to time as may be necessary and proper.

"6. The installation, maintenance, operation and use of Franchisee's electrical system within the Franchise territory will be in a manner so as not to unreasonably interfere with the placement, construction, maintenance and use of Carson City street lighting, water pipes, drains, sewers, streets, avenues, alleys, roads, traffic signal systems or other Carson City system (hereafter referred to as Carson City facilities) that have been, or may be constructed by Carson City or caused to be constructed by Carson City. Whenever Carson City reasonably determines that the relocation of a portion of Franchisee's electric facilities is necessary to accommodate installation or modification of Carson City facilities, Franchisee may be required to relocate within another location in the Franchise territory said portion of its facilities normally within one hundred fifty (150) days for low voltage (24.9 kV and below) and two hundred seventy (270) days for high voltage (60 kV and above). The City agrees to provide a substitute right-of-way. Such relocation shall be at the expense of the Franchisee unless one of the following two (2) conditions occurs:

a. The relocation is required or requested due to the actions or inaction of any party other than Carson City such as when a street lane is added as a condition to a Special Use Permit. In this circumstance the third party would be solely responsible for the cost of any relocation and the Franchisee would not be required to relocate facilities until such time that the third party compensates the Franchisee for the relocation costs in cash in US dollars or other manner acceptable to the Franchisee for any required relocation or provides a guarantee of payment for any required relocation that is acceptable to the

Franchisee.

b. The installation or modification of Carson City facilities encroaches upon the preexisting easements right-of-way, or any other land rights or interests in land, held or claimed by, the Franchisee. Where Franchisee has prior existing land rights, Carson City agrees to provide for replacement land rights for the relocated facilities.

This provision shall cease to be applicable to any public road if and when the City shall cease to have jurisdiction over or shall cease to be obligated to maintain such public road, and nothing contained in this section shall be construed to constitute a contractual obligation of Franchisee to assume jurisdiction over or the obligation to maintain such public road. This section shall not be construed to prohibit or restrict payment by the State to Franchisee for relocation of Franchisee's facilities pursuant to NRS Chapter 408. This section shall not be construed to prohibit Franchisee from charging parties other than the City for the cost of any relocation.

"7. Franchisee shall, with due diligence, provide itself, at its expense, a competent electrician to cut, repair and replace wires in all cases where such cutting or repairing or replacing is made necessary by the removal of buildings or other property through the public streets or highway with cost recovery in accordance with its tariffs as approved by the Public Utilities Commission of Nevada.

"8. Franchisee is further hereby granted the right to trim trees along the streets, alleys and public grounds of the city and any extension thereof in order to provide and maintain a safe installation of high voltage wires necessary, convenient or useful in the operation of its said system. In so doing, Franchisee will comply with Franchisee's established tree trimming standards and provide reasonable notice to the City of the general location and time for Franchisee's tree trimming activities.

"9. The Franchisee shall not be required to remove existing overhead facilities and place them underground without full compensation for the costs for such activities. Compensation shall include, but not be limited to, the remaining depreciated value of the existing facilities to be removed, removal costs of existing facilities, installation of the new underground facilities, and the reconnection costs for existing customers. The Franchisee is not responsible for the conversion of the customer's panels from overhead service to underground service. Where the facilities have deteriorated and are scheduled to be replaced by the Franchisee or are to be relocated in accordance with Section 3 above, the Franchisee shall participate in the costs for installing the facilities underground in a dollar amount equal to that which the Franchisee would have incurred to replace or relocate them as overhead facilities. Where the costs for undergrounding existing overhead electric facilities will be funded by parties other than the Franchisee, the Franchisee will not unreasonably refuse to relocate those existing overhead electric facilities underground.

"10. Franchisee, its successors and assigns, shall not be required to pay any fee for the purposes of this franchise agreement but will be subject to any business license fee as the City may establish pursuant to the laws of the State of Nevada.

"11. Either party may request negotiations for the purpose of amending this agreement by giving written notice to the other party. The party so notified will participate in good faith in such negotiations, but no change to the agreement may be made without mutual agreement of the parties and the enactment of said amendment by the Carson City Board of Supervisors.

"12. Said Sierra Pacific Power Company shall file its acceptance of the provisions of this ordinance with the Clerk of Carson City on or before the expiration of seven (7) days from the final effective date hereof; and as a part of such acceptance said Sierra Pacific Power Company shall file with the Clerk of

Carson City its written agreement to protect and save harmless Carson City from all damages and loss from, or arising out of, the construction, operation or maintenance of its said system of manufacture of distribution of electric energy. Nothing in this agreement shall be read or construed to work a waiver of any defenses or immunities available to Carson City as a matter of law or equity.

“13. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

“14. The clerk is authorized and directed to cause this ordinance to be published for three (3) issues on separate days in a newspaper of general circulation in Carson City, Nevada, after which this ordinance shall be in full force and effect.”

(Ord. 2002-35 § 3, 2002: Ord. 1982-3 § 3, 1982).

[<< previous](#) | [next >>](#)

CHAPTER 704A - FACILITIES PLACED UNDERGROUND

NRS 704A.010	Declaration of legislative findings and purpose.
NRS 704A.020	Definitions.
NRS 704A.030	“Clerk” defined.
NRS 704A.040	“Convert” and “conversion” defined.
NRS 704A.050	“Electric and communication facilities” defined.
NRS 704A.052	“Engineer” defined.
NRS 704A.060	“Governing body” defined.
NRS 704A.070	“Lot” defined.
NRS 704A.073	“Mailed notice” and “notice by mail” defined.
NRS 704A.077	“Municipality” and “municipal” defined.
NRS 704A.080	“New underground electric and communication service district” defined.
NRS 704A.090	“Overhead electric or communication facilities” defined.
NRS 704A.100	“Owner” defined.
NRS 704A.110	“Public place” defined.
NRS 704A.120	“Public utility corporation” defined.
NRS 704A.125	“Publication” and “publish” defined.
NRS 704A.130	“Real property” defined.
NRS 704A.140	“Service district” defined.
NRS 704A.150	“Underground service district” defined.
NRS 704A.170	Petition by owners for study of costs to establish service district.
NRS 704A.180	Statement by governing body of basis for apportionment of costs by assessments; study of costs by public utility; joint report of results of study; costs of joint report.
NRS 704A.190	Summary of estimate of costs to be assessed against each lot furnished to owner; joint summary.
NRS 704A.200	Petition for establishment of service district: Time and place of filing; number of petitioners required.
NRS 704A.210	Petition for establishment of service district: Manner of giving notice of hearing; payment of costs.
NRS 704A.220	Petition for establishment of service district: Contents of notice of hearing.
NRS 704A.230	Objections to establishment of service district.
NRS 704A.240	Hearing on petition; findings of governing body; adoption and contents of ordinance; basis for apportioning assessments.
NRS 704A.250	Inclusion of additional territory: Notice and hearing.
NRS 704A.260	Addition to or alteration of boundaries of district.
NRS 704A.270	Rehearings.
NRS 704A.280	Judicial review; objection to validity of action by governing body.
NRS 704A.290	Time for commencement of construction or conversion.
NRS 704A.300	Placement of facilities.
NRS 704A.310	Interim warrants.
NRS 704A.312	Resolution determining total cost of construction or conversion and ordering preparation of assessment roll; validity of assessment; limitations on amount of assessment.

NRS 704A.010 Declaration of legislative findings and purpose.

1. The Legislature finds that in many areas of this state owners of real property, counties, cities and public utility corporations desire to construct new underground electric and communication services and to convert existing

overhead electric and communication facilities to underground locations by establishing underground service districts for the purpose of effecting such construction or conversion.

2. The Legislature declares that a public purpose will be served and that the public welfare will be promoted by providing a procedure to accomplish such construction or conversion and that it is in the public interest to provide for such construction or conversion as provided in this chapter.

(Added to NRS by 1971, 1232)

NRS 704A.020 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in [NRS 704A.030](#) to [704A.150](#), inclusive, have the meanings ascribed to them in such sections.

(Added to NRS by 1971, 1232)

NRS 704A.030 “Clerk” defined. “Clerk” means the de facto or de jure county clerk or city clerk, or his successor in functions, if any.

(Added to NRS by 1971, 1232)

NRS 704A.040 “Convert” and “conversion” defined. “Convert” or “conversion” means the removal of existing overhead electric and communication facilities and the replacement thereof with underground electric and communication facilities constructed at the same or different locations.

(Added to NRS by 1971, 1232)

NRS 704A.050 “Electric and communication facilities” defined. “Electric and communication facilities” means any works or improvements used or useful in providing electric or communication service, including but not limited to poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, capacitors, meters, communication circuits, appliances, attachments and appurtenances, but:

1. “Communication facilities” does not include facilities used or intended to be used for the transmission of intelligence by microwave or radio, apparatus cabinets or outdoor public telephones.
2. “Electric facilities” does not include any facilities used or intended to be used for the transmission of electric energy at nominal voltages in excess of 25,000 volts or having a circuit capacity in excess of 12,000 kilovolt amperes.

(Added to NRS by 1971, 1232)

NRS 704A.052 “Engineer” defined. “Engineer” means the de facto or de jure engineer of the municipality, or his successor in functions, if any.

(Added to NRS by 1973, 472; A 1975, 878)

NRS 704A.060 “Governing body” defined. “Governing body” means:

1. The city council, city commission, board of supervisors or other local legislative or governing body of an incorporated city if all or any part of the service district is located within the limits of such incorporated city.
2. The board of county commissioners if the service district is located entirely within the unincorporated area of the county.

(Added to NRS by 1971, 1233)

NRS 704A.070 “Lot” defined. “Lot” includes any portion, piece or parcel of land, but not property owned or controlled by any person as a right-of-way.

(Added to NRS by 1971, 1233)

NRS 704A.073 “Mailed notice” and “notice by mail” defined.

1. “Mailed notice,” “notice by mail” or any phrase of similar import, except as otherwise qualified, means the giving by the municipal clerk, engineer, treasurer or other designated person, or any deputy thereof, as provided in this chapter or otherwise as determined by the governing body, of any designated written or printed notice addressed to the last known owner or owners of each lot being assessed or other designated person at his or their last known address or addresses by deposit, at least 20 days prior to the designated hearing or other designated time or event, in the United States mails, postage prepaid, as first-class mail.

2. The names and addresses of such property owners, unless otherwise provided, shall be obtained from the records of the county assessor or from such other source as the official giving such notice deems reliable.

3. Any list of such names and addresses pertaining to any service district or assessment roll may be revised from time to time, but such a list need not be revised more frequently than at 12-month intervals.

4. Any mailing of any notice required in this chapter shall be verified by the affidavit or certificate of the official

mailing the notice, which verification shall be retained in the records of the municipality at least until all assessments and bonds and any other securities pertaining thereto have been paid in full, or each claim relating thereto is barred by a statute of limitations.

5. Such affidavit or certificate of mailing shall be prima facie evidence of the mailing of such notice in accordance with the requirements of this chapter.

(Added to NRS by 1973, 473)

NRS 704A.077 “Municipality” and “municipal” defined.

1. “Municipality” means an incorporated city, including, without limitation, Carson City, in which is located wholly or in part the service district, or means the county in the unincorporated area of which is wholly located the service district, as the case may be.

2. “Municipal” pertains to a municipality.

(Added to NRS by 1973, 473; A 1981, 965)

NRS 704A.080 “New underground electric and communication service district” defined. “New underground electric and communication service district” means an area in which no existing electric and communication facilities are in place.

(Added to NRS by 1971, 1233)

NRS 704A.090 “Overhead electric or communication facilities” defined. “Overhead electric or communication facilities” means electric or communication facilities located above the surface of the ground except as provided in [NRS 704A.050](#) and [704A.150](#).

(Added to NRS by 1971, 1233)

NRS 704A.100 “Owner” defined. “Owner” means:

1. The person in whom legal title appears by recorded deed;
2. The person in possession under claim of title; or
3. The person exercising acts of ownership for himself or as the personal representative of the owner, including boards of trustees of school districts owning property within the service district.

(Added to NRS by 1971, 1233)

NRS 704A.110 “Public place” defined. “Public place” includes streets, alleys, roadways, sidewalks, rights-of-way, easements and similar properties as to which an incorporated city, an unincorporated town, a county, the State of Nevada or a public utility corporation may have a right.

(Added to NRS by 1971, 1233)

NRS 704A.120 “Public utility corporation” defined. “Public utility corporation” means:

1. Any person or corporation subject to the jurisdiction of the Public Utilities Commission of Nevada which provides electric or communication service to the public by means of electric or communication facilities.
2. An incorporated city or a county which provides electric or communication service to the public by means of electric or communication facilities.

(Added to NRS by 1971, 1233)

NRS 704A.125 “Publication” and “publish” defined.

1. “Publication,” “publish” or any term of similar import, except as otherwise qualified, means publication in at least one newspaper of general circulation in the municipality and the service district pertaining thereto, for at least once a week for 3 consecutive weeks by 3 weekly insertions, the first publication being at least 15 days prior to the designated hearing or other designated time or event.

2. The publication need not be made on the same day of the week in each of the 3 calendar weeks, but not less than 14 days shall intervene between the first and the last publication.

3. Any publication herein required shall be verified by the affidavit of the publisher which affidavit shall be filed with the municipal clerk.

(Added to NRS by 1973, 473)—(Substituted in revision by NRS 704A.108)

NRS 704A.130 “Real property” defined. “Real property” means real estate owned in fee, but not inclusive of any property owned or controlled as a railroad or street right-of-way.

(Added to NRS by 1971, 1233)

NRS 704A.140 “Service district” defined. “Service district” means a new underground electric and communication service district as defined by [NRS 704A.080](#), or an underground service district as defined by [NRS 704A.150](#), as the case may be.

(Added to NRS by 1971, 1233; A 1997, 2550)

NRS 704A.150 “Underground service district” defined. “Underground service district” means an area in which electric and communication facilities are to be placed underground, exclusive of:

1. Any lines or facilities used or intended to be used for the transmission of electric energy at nominal voltages in excess of 300,000 volts or having a circuit capacity in excess of 12,000 kilovolt amperes.
2. Facilities used or intended to be used for the transmission of intelligence by microwave or radio.
3. Facilities such as transformers, pull boxes, service terminals, pedestal terminals, splice closures, apparatus cabinets and similar facilities which normally are above the surface in areas where service lines are underground in accordance with standard underground practices.
4. On-the-ground facilities attached to overhead facilities which are used to connect an underground system to overhead facilities.

(Added to NRS by 1971, 1233; A 1997, 2550)

NRS 704A.170 Petition by owners for study of costs to establish service district.

1. If not less than 60 percent of the owners of contiguous real property within a reasonably compact area of reasonable size, who own not less than 60 percent on a square foot basis of the real property within such area, seek to establish a service district, they shall petition each public utility corporation serving such area to make a study of the costs related to the establishment of such area as a service district.

2. The petition shall set forth:

- (a) The necessity for the proposed service district.
- (b) That the public convenience, necessity or welfare will be promoted by the establishment of the service district and that the property to be included therein will be benefited.
- (c) The name and address of the owner of each parcel or lot within the proposed service district as reflected on the records of the county assessor.
- (d) Such other matters as may be reasonably required by the public utility corporation.

3. Each copy of the petition shall be:

- (a) Verified by one of the petitioners.
- (b) Accompanied by a plat or sketch indicating the boundaries of the proposed service district and size in square feet of each parcel or lot within the proposed service district.

(Added to NRS by 1971, 1234)

NRS 704A.180 Statement by governing body of basis for apportionment of costs by assessments; study of costs by public utility; joint report of results of study; costs of joint report.

1. Within 15 days after the receipt of a petition to establish a service district, each public utility corporation other than the municipality shall notify the municipality of the receipt of the petition and shall request the municipality to notify the public utility corporation of the basis to be used by the municipality in the apportionment of the costs related to the installation of the facility underground to be defrayed by special assessments levied against the specially benefited lots within the proposed service district if the facilities of the public utility corporation therein are to be placed underground pursuant to this chapter.

2. Within 30 days of the receipt by the municipality of each such request, or, if the public utility corporation is the municipality, the petition, the local governing body shall state, by resolution, the basis for the apportionment of those costs by assessments against the specially benefited lots, subject to the provisions of subsections 5 and 6 of [NRS 704A.240](#), and shall forthwith cause a certified true copy of the resolution pertaining to each public utility corporation requesting the basis of assessments to be furnished thereto.

3. Within 120 days after receipt of the basis for assessments, or, if the public utility corporation is the municipality, after the adoption of the resolution, each public utility corporation serving the area shall:

- (a) Make a study of the cost of providing new underground electric and communication facilities or conversion of its facilities in the area to underground service.
- (b) Make available in its office to the petitioners and to all owners of real property within the proposed service district a joint report of the results of the study of the public utility corporations affected.

4. If a public utility corporation subject to the jurisdiction of the Public Utilities Commission of Nevada determines as a result of the study that installation of the proposed service is not economically or technically feasible, it may, with the concurrence of the Public Utilities Commission of Nevada, so state in the joint report and proceed no

further toward installation of the proposed service. This chapter does not require the Public Utilities Commission of Nevada to participate in preparation of the joint report referred to in this section.

5. If a public utility corporation is a city or county and if it determines as a result of the study that installation of the proposed service is not economically or technically feasible, it may, with the concurrence of its governing body, as provided by resolution, so state in the joint report and proceed no further toward installation of the proposed service.

6. Except for the facilities of each public utility corporation described in subsection 4 or 5, if any, the joint report must:

(a) Contain an estimate of the costs to be assessed to each lot of real property located within the proposed service district for the construction of new facilities or conversion of facilities within public places.

(b) Indicate the estimated cost to be assessed to each lot of real property for placing underground the facilities of the public utility corporation located within the boundaries of each lot.

(c) Indicate the estimated cost, if any, to be borne by the public utility corporation for any facilities to be provided by it and which remain its property rather than becoming property of owners of individual lots, as provided by regulations of the Public Utilities Commission of Nevada in the case of a public utility corporation other than a city or county, and, in the case of any public utility corporation, by any other applicable laws, ordinances, rules or regulations.

7. The costs of preparing the joint report must be borne by the public utility corporation or corporations whose electric or communication facilities are to be included in the proposed service district unless the governing body orders the establishment of the service district, in which event the costs must be included in the costs of the service district.

(Added to NRS by 1971, 1234; A 1973, 473; 1979, 712; 1997, 1918, 2550; [1999, 572, 575](#))

NRS 704A.190 Summary of estimate of costs to be assessed against each lot furnished to owner; joint summary.

1. A summary of the estimate of the costs to be assessed against each lot of real property located within the proposed service district for the new construction or conversion of facilities within public places and the estimated costs to be assessed to each lot of real property for placing underground the facilities of the public utility corporation located within the boundaries of each lot shall be mailed by the public utility corporation to each owner of real property located within the proposed service district to the address of such owner as contained in the petition for the cost study, if such owner and address is included in the petition, or to such owner at the address thereof as shown in the records of the county assessor.

2. Two or more public utility corporations with facilities in the proposed service district, except for any public utility corporation described in subsection 4 or 5 of [NRS 704A.180](#), may:

(a) Prepare a joint summary of such costs;

(b) Cause the joint summary so to be mailed to each owner of real property within the proposed service district; and

(c) Apportion the costs of so preparing and mailing the joint summary between or among such public utility corporations on an equitable basis as may be mutually agreeable thereto.

3. Any estimate of cost required or authorized in this chapter shall not constitute a limitation upon such cost nor a limitation upon the rights and powers of any public utility corporation, the municipality, the governing body, or any officers, agents or employees thereof.

(Added to NRS by 1971, 1235; A 1973, 475)

NRS 704A.200 Petition for establishment of service district: Time and place of filing; number of petitioners required.

1. Within 90 days after the joint report referred to in [NRS 704A.180](#) is made available to the petitioners, not less than 60 percent of the owners of real property within the area who own not less than 60 percent of the real property on a square foot basis within the area, excluding public places, may petition the governing body for establishment of a service district in the same area described in the original petition or petitions.

2. The petition shall be filed with the clerk of the municipality.

(Added to NRS by 1971, 1235; A 1973, 475)

NRS 704A.210 Petition for establishment of service district: Manner of giving notice of hearing; payment of costs.

1. Upon receipt of a petition to establish a service district, the governing body shall set a date for a hearing on the petition, which date shall not be later than 60 days after the filing of the petition with the clerk.

2. The clerk shall:

(a) Cause a notice of the hearing to be posted in not less than three public places within the proposed service district for not less than 30 days prior to the date of the hearing.

(b) Cause a notice of the hearing to be published once not less than 10 days preceding the date of the hearing in some newspaper having a general circulation in the proposed service district.

(c) Mail a notice of the hearing at least 15 days preceding the date of the hearing to:

(1) Each owner of a lot of real property within the boundaries of the proposed service district as reflected on the records of the county assessor.

(2) Each governmental agency having rights in public places within the proposed service district.

3. The costs of posting, publication and mailing required in this section shall be assessed by the governing body on a pro rata basis to each public utility corporation whose electric or communication facilities are to be included in the proposed service area, and if a service district is established such costs shall be included in the costs of the district.

(Added to NRS by 1971, 1235; A 1973, 475)

NRS 704A.220 Petition for establishment of service district: Contents of notice of hearing. The notice of the hearing shall:

1. State the time and place where the hearing will be held.

2. Describe the boundaries of the proposed service district.

3. State that the joint report of estimated costs for each lot or parcel included within the proposed service district are available for public inspection at the office of the clerk.

(Added to NRS by 1971, 1236)

NRS 704A.230 Objections to establishment of service district.

1. Any person owning real property within the proposed service district who wishes to object to the establishment of the proposed service district or to the costs thereof as contained in the joint report pertaining to his lot or parcel included within the proposed service district shall, before the date set for the hearing, file written objections with the clerk.

2. In considering objections, the governing body shall be governed by the following:

(a) Each paper containing signatures shall have attached thereto an affidavit of an owner of real property within the proposed service district stating that each signature was affixed in his presence and is the signer's genuine signature.

(b) An objection shall be counted only for the real property described as belonging to the signer. An objection without a description shall not be counted.

(c) The signature of one cotenant, or if community property, the signature of either spouse, is sufficient for an objection.

(d) An objection signed by a guardian, executor, administrator or trustee is valid without an order of court therefor.

(e) An objection by a person in possession under a contract of purchase is valid.

(f) When several persons have a claim to or an interest in real property, the signature of any of them is sufficient unless questioned by another having a claim or interest, whereupon the wishes of the person legally entitled to possession of the real property at the date of the objection controls.

(g) An objection signed by an agent or attorney-in-fact shall be disregarded unless the authority of the agent has been recorded with the county recorder or written or telegraphic authority is attached to the objection before expiration of the time for filing the objection.

(h) An objection may be withdrawn by filing a withdrawal with the clerk before 5 p.m. of the last day for the filing of objections.

(i) The signature of a cotenant, spouse, claimant or person interested may be questioned, and the authority of an agent or attorney-in-fact may be questioned, at any time before the governing body finally passes upon the sufficiency of the objection, but the authority of an agent or attorney-in-fact may not be revoked as to a signature after the expiration of the period in which objections may be filed.

(Added to NRS by 1971, 1236)

NRS 704A.240 Hearing on petition; findings of governing body; adoption and contents of ordinance; basis for apportioning assessments.

1. At the place, date and hour specified for the hearing in the notice or at any subsequent time to which the hearing may be adjourned, the governing body shall give full consideration to all written objections which have been filed and shall hear all owners of real property within the proposed service district desiring to be heard.

2. If the governing body determines after the hearing that an existing or a new electric facility must be placed

underground and that:

- (a) The requirements for the establishment of a service district have been satisfied;
 - (b) Objections have not been filed in writing by more than 40 percent of the owners of real property within the proposed service district, or by owners of more than 40 percent of the real property on a square foot basis in the proposed service district;
 - (c) Considering all objections, the cost of construction or conversion as contained in the joint report prepared pursuant to [NRS 704A.180](#) is economically and technically feasible for the public utility corporations involved and the owners of real property affected; and
 - (d) The proposed service district is a reasonably compact area which encompasses areas that will benefit from the installation of the facility underground,
- the governing body shall enact an ordinance establishing the area as a service district.

3. The ordinance must:

- (a) State the costs to be assessed to each lot in the service district, including the appropriate share of all costs referred to in [NRS 704A.180](#) and [704A.210](#).
- (b) Direct the public utility corporation owning overhead electric or communication facilities within the service district to construct or convert such facilities to underground facilities and, in the case of a public utility corporation other than a city or county, to construct or convert such facilities in accordance with standard underground practices and procedures approved by the Public Utilities Commission of Nevada.
- (c) State the method of levying assessments, the number of installments, and the times when the costs assessed will be payable.

4. Before enacting an ordinance establishing a service district, the governing body shall exclude by resolution or ordinance any territory described in the petition which the governing body finds will not be benefited by inclusion in the service district or for which underground construction or conversion is not economically or technically feasible.

5. The basis for apportioning the assessments:

- (a) Must be in proportion to the special benefits derived to each of the several lots comprising the assessable property within the service district; and
- (b) Must be on a front foot, area, zone or other equitable basis as determined by the governing body.

6. Regardless of the basis used for the apportionment of assessments, in cases of wedge or V or any other irregularly shaped lots, an amount apportioned thereto must be in proportion to the special benefits thereby derived.

7. The assessable property in the service districts consists of the lots specially benefited by the construction or conversion of service facilities, except:

- (a) Any lot owned by the Federal Government in the absence of consent of Congress to its assessment; and
- (b) Any lot owned by the municipality.

(Added to NRS by 1971, 1236; A 1973, 476; 1997, 1919, 2551; [1999, 572](#), [575](#))

NRS 704A.250 Inclusion of additional territory: Notice and hearing.

1. If the governing body determines at the hearing that territory not included in the petition should be included within the service district the owners of real property within such territory shall be given notice by mail as provided in subsection 2 of [NRS 704A.210](#) of a subsequent hearing to be held on the proposal to include such additional territory.

2. The provisions of [NRS 704A.230](#) and [704A.240](#) apply to all such subsequent hearings.

(Added to NRS by 1971, 1237)

NRS 704A.260 Addition to or alteration of boundaries of district. Additions to and alterations of the boundaries of an established service district shall be made in the manner provided for the establishment of a service district.

(Added to NRS by 1971, 1237)

NRS 704A.270 Rehearings.

1. The public utility corporation or corporations involved and all owners of real property within the established service district shall be deemed parties to the proceedings for the purposes of applications for rehearings and appeals.

2. After an order is issued by the governing body establishing a service district, any party to the proceedings may apply to the governing body for a rehearing. The governing body may grant a rehearing if in its judgment sufficient reason appears therefor.

3. No claim arising from an order of the governing body shall accrue in any court to any party to the proceedings unless such party makes application to the governing body for a rehearing within 10 days from the date of receiving notice of the enactment of the ordinance.

4. The application for a rehearing shall state specifically the grounds on which it is based and no party to the proceedings shall, in any court, urge or rely on any ground not stated in the application.

5. If an application for rehearing is timely filed with the clerk the order shall be suspended until the application is granted or denied. At its next regular meeting following the filing of an application for rehearing the governing body shall either deny the application or grant a rehearing, which shall be held within 15 days from the date of an order granting the rehearing.

6. If, after a rehearing and a consideration of all the facts, including those arising since the enactment of the ordinance, the governing body finds that the original ordinance or any part thereof is in any respect unjust or unwarranted or should be changed, the governing body may repeal or amend the ordinance.

(Added to NRS by 1971, 1237)

NRS 704A.280 Judicial review; objection to validity of action by governing body.

1. Any party to the proceedings aggrieved by an ordinance of the governing body establishing the service district, as amended, if amended, and filing a written objection as provided in [NRS 704A.240](#) and a written application for a rehearing as provided in [NRS 704A.270](#), may commence an appropriate action in the district court of the county in which the service district is located to challenge the validity of the ordinance. No such action may be commenced more than 60 days after enactment of the ordinance, or the last amendment thereto, if any, whichever is the later in time.

2. Any objection to the validity and correctness of the proceedings and instruments taken, adopted or made prior to the date of the application for rehearing shall be deemed waived in any hearing on assessments conducted by the governing body under [NRS 704A.240](#) unless the objection is presented in writing at the times and in the manner specified in this chapter by a written objection under [NRS 704A.240](#), if such proceedings and instruments were theretofore taken, adopted or made, and by a written application for rehearing under [NRS 704A.270](#).

(Added to NRS by 1971, 1238; A 1973, 477; 1981, 965)

NRS 704A.290 Time for commencement of construction or conversion. If the governing body enacts an ordinance establishing a service district, the public utility corporation is not required to commence construction or conversion until:

1. The time for applying for a rehearing has expired and no application has been filed; or

2. If an application for a rehearing has been filed, the governing body has declined to repeal or amend the ordinance; and

3. Either the time for commencing an action in the district court has expired and no action has been commenced, or if an action has been commenced, a final judgment upholding the validity of the ordinance has been rendered; and

4. Arrangements for financing the construction or conversion have been completed and moneys are available therefor from the issuance of interim warrants, or from the levy and collection of assessments and issuance of bonds, or otherwise; and

5. The public utility corporation has been provided with or acquired necessary easements or licenses satisfactory to it for installation and maintenance of underground electric and communication facilities.

(Added to NRS by 1971, 1238; A 1973, 477)

NRS 704A.300 Placement of facilities.

1. The service facilities within the boundaries of each lot within an underground service district must be placed underground at the same time as or after the underground system in private easements and public places is placed underground. The public utility corporation involved, directly or through a contractor, shall, in accordance with the rules and regulations of the public utility corporation, but subject to the regulations of the Public Utilities Commission of Nevada in the case of a public utility corporation other than a city or county, and, in the case of any utility corporation, subject to any other applicable laws, ordinances, rules or regulations of the municipality or any other public agency under the police power, convert to underground its facilities on any such lot in the case of:

(a) An electric public utility, up to the service entrance.

(b) A communication public utility, to the connection point within the house or structure.

2. All costs or expenses of conversion must be included in the costs on which the underground conversion cost for such property is calculated, as provided in this chapter.

(Added to NRS by 1971, 1238; A 1973, 478; 1987, 735; 1997, 1920, 2553; [1999, 572, 575](#))

NRS 704A.310 Interim warrants.

1. For the purpose of paying any contractor or otherwise defraying any costs as they become due from time to time until money is available therefor from the levy and collection of assessments and any issuance of bonds, the

governing body may issue interim warrants.

2. Any interim warrants must:

(a) Bear such date or dates;

(b) Mature in such a denomination or denominations at such time or times, or at any time upon call;

(c) Bear interest at such a rate or rates, which must not exceed by more than 3 percent the Index of Twenty Bonds which was most recently published before the bids are received or a negotiated offer is accepted; and

(d) Be payable in such medium of payment at such place or places within and without the State, including but not limited to the office of the county treasurer,

as the governing body may determine.

3. Any interim warrants may be issued with privileges for registration for payment as to principal only, or as to both principal and interest, may be negotiable or nonnegotiable, may be special obligations payable from designated special assessments, any bond proceeds, and any other money designated to be available for the redemption of the interim warrants, and generally must be issued in such manner, in such form, with such recitals, terms, covenants and conditions, and with such other details, as may be provided by the governing body by ordinance.

(Added to NRS by 1971, 1239; A 1981, 1422; 1983, 589)

NRS 704A.312 Resolution determining total cost of construction or conversion and ordering preparation of assessment roll; validity of assessment; limitations on amount of assessment.

1. At any time after there occur the conditions stated in subsection 1 or in subsections 2 and 3 of [NRS 704A.290](#), the governing body, by resolution, shall:

(a) Determine the total cost of the construction or conversion pertaining to the service district, including, without limitation, interest on any interim warrants relating thereto and all other incidental costs, based upon the actual costs known at the time of such determination of cost and otherwise upon the estimated costs stated in the joint report prepared under [NRS 704A.180](#), as modified, if modified by the occurrence thereafter of factors affecting such costs and permitting their revision;

(b) Determine the net cost of the construction or conversion to be defrayed by special assessments;

(c) Order the municipal engineer to make out or to cause to be made out an assessment roll containing, among other matters:

(1) The name of each last known owner of each lot to be assessed, or if not known, a statement that the name is "unknown"; and

(2) A description of each tract to be assessed, and the amount of the proposed assessment thereon, apportioned upon the basis for assessments stated in the resolution of the governing body adopted pursuant to subsection 2 of [NRS 704A.180](#), but subject to the provisions of subsections 5 and 6 of [NRS 704A.240](#); and

(d) Cause a copy of the resolution to be furnished by the municipal clerk to the municipal engineer.

2. If by mistake or otherwise any person is improperly designated in the assessment roll as the owner of any lot, or if the same is assessed without the name of the owner or each owner, as the case may be, or in the name of a person other than the owner, such assessment shall not for that reason be vitiated but shall, in all respects, be as valid upon and against such lot as though assessed in the name of the owner or each owner thereof, as the case may be; and when the assessment roll has been confirmed, such assessment shall become a lien on such lot and be collected as provided by law.

3. No assessment shall exceed the amount of the special benefits to the lot assessed nor exceed the amount of the reasonable market value of such lot for any one project for the construction or conversion of any one type of service facilities of a public utility corporation, as determined by the governing body.

(Added to NRS by 1973, 478)