

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Rulemaking to amend, adopt, or repeal regulations)
pertaining to the fund to maintain the availability of) Docket No. 16-01021
telephone service in Nevada.)
_____)

NOTICE OF INTENT TO ACT UPON A REGULATION,
NOTICE OF WORKSHOP, AND NOTICE OF HEARING FOR THE ADOPTION,
AMENDMENT AND REPEAL OF REGULATIONS OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA

On January 27, 2016, the Public Utilities Commission of Nevada (“Commission”) opened a Rulemaking to amend, adopt, or repeal regulations pertaining to the fund to maintain the availability of telephone service in Nevada. This matter was designated as Docket No. 16-01021.

The Commission is conducting the Rulemaking pursuant to the Nevada Revised Statutes (“NRS”) and Nevada Administrative Code (“NAC”) Chapters 233B, 703, and 704, including but not limited to NRS 703.025 and 704.210.

NOTICE IS HEREBY GIVEN that the Commission will hold a public WORKSHOP pursuant to NRS 233B.061(2) to be held as follows:

THURSDAY, APRIL 13, 2017
10:00 A.M.
Hearing Room A
Public Utilities Commission of Nevada
1150 East William Street
Carson City, Nevada 89701

VIA VIDEOCONFERENCE TO:

Hearing Room A
Public Utilities Commission of Nevada
9075 West Diablo Drive, Suite 250
Las Vegas, Nevada 89148

The purpose of the workshop is to solicit comments from all interested persons on the proposed regulation regarding Nevada Universal Service Fund (“NUSF”) high cost support request and withdrawal processes, which has been referred to as “Phase 1” of Docket No. 16-01021. A period will be provided for comments by the general public and discussion of those comments. Public comments may be limited to two (2) minutes per person at the discretion of the Presiding Officer.

NOTICE IS HEREBY GIVEN that the Commission will hold a public HEARING pursuant to NRS 233B.061(3) to be held as follows:

MONDAY, APRIL 17, 2017
10:00 A.M.
Hearing Room A
Public Utilities Commission of Nevada
1150 East William Street
Carson City, Nevada 89701

VIA VIDEOCONFERENCE TO:

Hearing Room A
Public Utilities Commission of Nevada
9075 West Diablo Drive, Suite 250
Las Vegas, Nevada 89148

The purpose of the hearing is to receive comments from all interested persons on the proposed regulation regarding NUSF high cost support request and withdrawal processes. A period will be provided for comments by the general public and discussion of those comments. Public comments may be limited to two (2) minutes per person at the discretion of the Presiding Officer. If no person who is directly affected by the proposed regulation appears at the hearing to request time to make an oral presentation, the Commission may proceed to act upon any written submissions.

The following information is provided pursuant to the requirements of NRS 233B.0603:

The proposed regulation is intended to simplify and clarify the NUSF withdrawal process.

The proposed regulation is expected to have no adverse or beneficial immediate or long-term economic effects on the businesses that it is to regulate.

The proposed regulation is expected to have no adverse or beneficial immediate or long-term economic effects on the public.

The Commission uses the simplified Delphi method in determining the impact on small businesses, whereby experts review the text of the proposed regulation and determine the likely impact of the proposed regulation on small businesses. These experts share their responses with each other and form a consensus view.

It is unknown at this time whether there will be an additional cost to the Commission for the enforcement of the proposed regulation; however, and cost is likely to be minimal.

The proposed regulation does not overlap or duplicate any state or local regulations.

The proposed regulation is not required pursuant to federal law.

The proposed regulation is not more stringent than a federal regulation that regulates the same activity.

The proposed regulation does not establish any new fee or increase an existing fee.

Persons wishing to comment upon the proposed action of the Commission may appear at the scheduled workshop and hearing or may address their comments, data, views, or arguments in written form to the Commission at 1150 East William Street, Carson City, Nevada, 89701 or 9075 West Diablo Drive, Suite 250, Las Vegas, Nevada, 89148 on or before WEDNESDAY, APRIL 5, 2017. Written comments should include proposed revisions, if any, to the proposed regulation. Additionally, the Commission specifically seeks written comments regarding the

following transition elements for withdrawal requests for calendar year 2018 (withdrawal requests applications to be filed in 2017), which taken together, exemplify the Presiding Officer's proposed transition process to the withdrawal process detailed in the proposed regulation:

- 1) All small-scale providers of last resort ("SSPLRs") seeking NUSF disbursements for 2018, must file an application for disbursement. For a SSPLR using the Connect America Cost Model method of federal Universal Service Fund support, the SSPLR must file its application for disbursement no later than August 15, 2017. For a SSPLR using the High Cost Loop Support method of federal Universal Service Fund support, the SSPLR must file its application for disbursement no later than October 16, 2017.
- 2) For SSPLRs using the Connect America Cost Model method of federal Universal Service Fund support, the actual Connect America Cost Model support level will be used for determining the NUSF support level for 2018. Consistent with the proposed regulation, no amount of NUSF support will be allowed to compensate for any loss in federal support due to failure to meet federal build-out commitments.
- 3) For SSPLRs using the High Cost Loop Support method of federal Universal Service Fund support, the estimated amount of federal support for 2018 would be used in determining the level of NUSF support for 2018.
- 4) The financial data and authorized rate of return will be based on the financial data and authorized rate of return used in the small-scale provider of last resort's 2015 NUSF withdrawal application or last general rate case, whichever is most recent.

The Commission also seeks comment on limitations on the duration for which SSPLRs may receive NUSF support prior to filing a general rate case. Any proposed limitations on duration


should specifically consider the five-year limitation (with opportunity for up to two additional years) specified in the proposed regulation as well as the potential administrative burden of processing multiple SSPLR general rate cases simultaneously. Specifically, the Commission seeks a proposed schedule for each qualified SSPLR to file a general rate case that does not deviate substantially from the five-year limitation set forth in the proposed regulation (considering both the SSPLRs last general rate case and last fully vetted NUSF disbursement application under the existing regulations) and that does not result in multiple SSPLRs filing general rate cases simultaneously.

A copy of this notice and the proposed regulation to be adopted, amended, or repealed will be on file at the State Library, 100 North Stewart Street, Carson City, Nevada 89701, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulation to be adopted, amended, or repealed are on file and available for public viewing at the Commission's website at <http://puc.nv.gov>, the offices of the Commission at 1150 East William Street, Carson City, Nevada, 89701 and 9075 West Diablo Drive, Suite 250, Las Vegas, Nevada, 89148, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary. This does not apply to a public body subject to the Open Meeting Law.

Upon adoption of any regulation, the Commission, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption or incorporate therein its reason for overruling the consideration urged against its adoption.

Pursuant to NRS 233B.060(1), the Presiding Officer in this matter anticipates placing the proposed regulation on a Commission Agenda no earlier than April 26, 2017, for the Commission's consideration as to whether to adopt the regulation as permanent.

By the Commission,

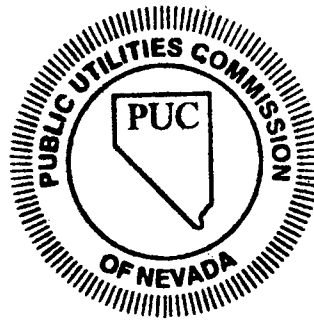


TRISHA OSBORNE,
Assistant Commission Secretary

Dated: Carson City, Nevada

3-9-17

(SEAL)



**PROPOSED REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA**

**Docket No. 16-01021
(Phase I)**

March 7, 2017

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

Section 1. NAC 704.68044 is hereby amended to read as follows:

NAC 704.68044 Duties of Fund Administrator.

The Fund Administrator shall:

1. Conduct periodic audits of contributors to the fund to maintain the availability of telephone service to ensure that the correct payments are being remitted by persons providing intrastate telecommunication service or the functional equivalent of such service through any form of telephony technology, unless the levy and collection of an assessment with regard to a particular form of technology is prohibited by federal law.

2. Verify the qualifications of an applicant who requests support from the fund to maintain the availability of telephone service.

3. Collect assessments from all persons providing intrastate telecommunication service or the functional equivalent of such service through any form of telephony technology, unless the levy and collection of an assessment with regard to a particular form of technology is prohibited by federal law and deposit that money into the fund to maintain the availability of telephone service.

4. Disburse money from the fund to maintain the availability of telephone service to eligible telecommunications carriers who qualify for funding in accordance with NAC 704.6804 to 704.68056, inclusive~~[,];~~ ***Sections 2 to 3 and 5, of this Regulation, inclusive;*** and with applicable orders of the Commission.

5. Prepare a quarterly report of all activities of the fund to maintain the availability of telephone service, including:

(a) The total quarterly and year-to-date payments into the fund to maintain the availability of telephone service from all persons who provide telecommunication service or the functional equivalent of such service through any form of telephony technology, unless the levy and collection of an assessment with regard to a particular form of technology is prohibited by federal law;

(b) An itemization of all disbursements from the fund to maintain the availability of telephone service to each qualified eligible telecommunications carrier; and

(c) The results of any audits of contributors conducted pursuant to subsection 1.

6. Prepare and submit a request to the Commission to collect money for and disburse money from the fund to maintain the availability of telephone service, which includes:

(a) The estimated amount of money required to support the fund to maintain the availability of telephone service for the following year; and

(b) The percentage rate which must be applied to the revenue sources identified in the list intrastate retail revenues derived from telecommunication service of all of the providers of intrastate telecommunication service or the functional equivalent of such service through any form of telephony technology, unless the levy and collection of an assessment with regard to a particular form of technology is prohibited by federal law to raise the estimated amount of money required, as reported in paragraph (a).

Section 2. NAC 704.680465 is hereby amended to read as follows:

**NAC 704.680465 Designation as eligible telecommunications carrier:
Information to be filed with annual report.**

A provider of telecommunication service who is designated as an eligible telecommunications carrier shall submit with the annual report required pursuant to NAC 704.7483, ~~information which demonstrates~~ an affirmation that the provider has met the requirements set forth in NAC 704.680461 during the year for which the report is submitted.

Section 3. NAC 704.68048 is hereby amended to read as follows:

NAC 704.68048 Qualification of small-scale provider of last resort for disbursement from fund; disputes regarding qualification; required return on common equity; audit.

1. To qualify for money from the fund to maintain the availability of telephone service to keep basic service rates at an affordable level pursuant to subsections 1 and 2 of NAC 704.68043, a small-scale provider of last resort must meet the following requirements:

(a) Its rates for interstate and intrastate switched access must be in parity, or the small-scale provider of last resort must agree to carry out a plan approved by the Commission designed to achieve parity for those rates within the time specified by the Commission; and

(b) Its monthly basic recurring flat rates for residential and business basic service must be reasonably comparable to rates charged for similar services in urban areas. ~~or the small-scale provider of last resort must agree to carry out a plan approved by the Commission designed to set those rates at levels reasonably comparable to rates charged for similar services in urban areas within the time specified by the Commission.~~ A rate will be deemed reasonably comparable if it was established by the

Commission in the small-scale provider of last resort's most recent general rate case, or it is equal to or higher than the residential basic rate floor established by the Federal Communications Commission. Small-scale providers of last resort may file to change their rates in accordance with NRS 704.100(1)(g) with the Commission by July 1 of the same year.
➔If a small-scale provider of last resort's rates do not equal or exceed the minimum threshold set forth in paragraph (b), the Commission will reduce the annual amount of money for which the small-scale provider of last resort would otherwise be authorized to receive by the difference between that amount and the amount of revenue the small-scale provider of last resort would receive if its rates met the minimum threshold set forth in paragraph (b).

2. Any disputes regarding the qualification of a small-scale provider of last resort to receive money from the fund to maintain the availability of telephone service will be resolved by the Commission at the request of the Fund Administrator or of any other interested party.

3. ~~{If a}~~A small-scale provider of last resort of basic service ~~{is qualified pursuant to this section to receive money from the fund to maintain the availability of telephone service, an opposing party who disputes that determination}~~ has the burden of demonstrating that ~~{the small-scale provider should not be allowed to receive money to support basic service rates}~~circumstances exist which justify its eligibility to receive money from the fund to maintain the availability of telephone service.

4. ~~{A small-scale provider of last resort who is qualified pursuant to this section to receive money from the fund to maintain the availability of telephone service shall calculate its overall rate of return by using the common return on equity as determined in NAC 703.27138 and the information relating to the overall rate of return which must be included in an application for a rate change filed pursuant to NAC 703.27132. To be eligible to receive money from the fund pursuant to this section, the level of earnings of the small-scale provider of last resort, as calculated pursuant to subsection 1 of NAC 704.68056, must be below the rate of return authorized for the small-scale provider by the Commission.}~~ A small-scale provider of last resort's request for monetary support from the fund to maintain the availability of telephone service must be made as component of a general rate case filed pursuant to NRS 704.110. Pursuant to such a request, the Commission will determine whether the small-scale provider of last resort is qualified to receive monetary support from the fund to maintain the availability of telephone service, and if qualified, the annual amount of support to be provided. The small-scale provider of last resort shall receive the amount of approved annual monetary support for a period of five years, except as provided in Subsection 5 of this Section, subject to the provisions of NAC 704.68056. Except as provided in Subsection 5 of this Section, requests for support from the fund to maintain the availability of telephone service after the fifth year of eligibility must be made as part of a general rate case application filed pursuant to NRS 704.110.

5. A small-scale provider of last resort may seek a two-year waiver of the requirement to file a general rate case to receive subsequent monetary support from the fund to maintain the availability of service by filing a petition with the Commission. The small-scale provider of last resort must demonstrate that the waiver is in the public interest and that the small-scale provider of last resort is not earning more than its authorized rate of return. The small-scale provider of last resort shall include in its petition the following information to be used in

determining whether it is collecting excess earnings: annual operating revenue, expense, and rate base data as provided in its most recent annual report filed with the Commission pursuant to NRS 704.035; adjustments to reflect applicable Commission determinations in the small-scale provider of last resort's last general rate case; the rate of return on rate base utilizing the most recent return on equity filed by the staff of the Commission pursuant to NAC 703.27138; and the actual annual federal Universal Service Fund support amount for a small-scale provider of last resort that receives federal support under the Connect America Cost Model or the most recent estimated amount of federal support for the current year for a small-scale provider of last resort that receives federal support under the High Cost Loop Support method.

6. A request for money from the fund to maintain the availability of telephone service is subject to audit by the ~~[Fund Administrator or the]~~ Commission and its staff.

Section 4. NAC 704.68054 is hereby amended to read as follows:

NAC 704.68054 Assessment for support of fund.

1. The Commission will make an annual determination of the total amount of money required to support the fund to maintain the availability of telephone service for the next calendar year based on the recommendation of the Fund Administrator and any person given permission to intervene by the Commission. The Commission will then set the assessment based on a percentage rate on anticipated revenues from retail intrastate telecommunication service of all providers of telecommunication service required to recover this amount.

2. The assessment must be remitted to the Fund Administrator by a provider of telecommunication service on a quarterly basis not later than 30 days after the last day of the month in the calendar quarter.

3. Any shortfall or overage in the fund to maintain the availability of telephone service at the end of the calendar year must be carried forward to the following calendar year and used in establishing the rate for that year.

Section 5. NAC 704.68056 is hereby amended to read as follows:

NAC 704.68056 Procedure for disbursement from fund; report of Fund Administrator regarding assessment for fund; deviation from or waiver of deadlines for filings.

1. ~~[Upon its initial request for money from the fund to maintain the availability of telephone service, and once every 4 years thereafter, a small scale provider of last resort shall submit sufficient information to demonstrate its level of earnings pursuant to NAC 703.27116 to 703.27146, inclusive, as appropriate.]~~ A small-scale provider of last resort that receives federal Universal Service Fund support under the Connect America Cost Model shall receive the Commission-approved annual amount of monetary support determined in the last general rate case for a period of five years without further action except to the extent a waiver is granted pursuant to Section 3(5). In determining the annual amount

of support, the Commission shall not include any amount of support to compensate for reductions in Federal Universal Service support resulting from a failure to meet build-out commitments under Federal Communications Commission rules or regulations.

2. A small-scale provider of last resort that receives federal Universal Service Support under the High Cost Loop Support mechanism shall receive the Commission-approved annual amount of monetary support determined in a general rate case for the current year. For all subsequent years in a five year period, except to the extent a waiver is granted pursuant to Section 3(5), a small-scale provider of last resort subject to this subsection must file an adjustment application with the Commission not later than October 15 of the year prior to the calendar year for which monetary support will be disbursed. The small-scale provider of last resort shall include in its application the most recent estimated amount of Federal High Cost Loop Support for intrastate operations it expects to receive for the upcoming calendar year and financial data supporting the revenue requirement approved in its last general rate case. The small-scale provider of last resort shall request monetary support from the fund to maintain the availability of telephone service equal to the amount approved by the Commission pursuant to NAC 704.68048(4) and adjusted for any difference between the most recent estimated amount of federal intrastate High Cost Loop Support funding in provided in the application and the amount projected in the small-scale provider of last resort's last general rate case. The small-scale provider of last resort must also send the filing to the Fund Administrator at the same time it makes the filing with the Commission. The staff of the Commission shall verify that the adjusted disbursement amount requested by the small-scale provider of last resort is consistent with any difference between the most recent estimated amount of federal intrastate High Cost Loop Support funding in provided in the application and the amount projected in the small-scale provider of last resort's last general rate case and that the adjusted disbursement amount is consistent with any applicable Commission-ordered financial adjustments in the small-scale provider's last general rate case. The staff of the Commission shall provide its analysis to the Commission within 30 days of receipt of the Application.

~~[2]3.~~ A provider of telecommunication service does not have to submit information on its earnings or rates if:

- ~~(a) The provider is a competitive supplier;~~
- ~~—(b) The provider is requesting a one-time disbursement of money from the fund to maintain the availability of telephone service to extend or improve basic service; or~~
- ~~—(c) The] or the provider is requesting a disbursement of money from the fund to maintain the availability of telephone service pursuant to NAC 704.68047 or 704.680473.~~

~~[3.—An application for a disbursement of money from the fund to maintain the availability of telephone service by a small scale provider of last resort to maintain affordable rates for basic service must be submitted directly to the Fund Administrator. All other applications must be submitted to the Commission.]~~

~~4. [An application to the Fund Administrator must be submitted not later than 180 days before the beginning of the calendar year for which the money is being requested.] An application to the Commission must be submitted by a competitive~~

supplier not later than 270 days before the beginning of the calendar year for which the money is being requested.

5. The Commission will issue an order which fully or partially approves or denies an application submitted to it within 120 days after receiving the application.

6. The Fund Administrator shall submit a report to the Commission which sets forth the amount of money needed for the fund to maintain the availability of telephone service for the next calendar year and the recommended percentage rate to be assessed on intrastate retail revenues not later than 120 days before the beginning of the next calendar year. The Commission will issue an order regarding the report filed by the Fund Administrator pursuant to this section within 90 days after the date on which the report is filed.

7. The Commission may grant a deviation or waiver from the deadlines for the filings pursuant to NAC 704.6804 to 704.68056, inclusive, to the extent it determines that the deviation or waiver is in the public interest.