

Chapter 704 of NAC

LCB File No. T028-05

**ADOPTED TEMPORARY REGULATION OF THE  
PUBLIC UTILITIES COMMISSION OF NEVADA**

**Filed with the Secretary of State on July 8, 2005**

Docket No. 04-8003

EXPLANATION - Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted

AUTHORITY: NRS 703.025, 704.040, 704.210, 704.6873

**Section 1.** Chapter 704 of the NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation:

**Sec. 2. *Verification of continued eligibility.***

*1. In order to verify a subscriber's continued eligibility pursuant to NAC 704.680474(2)(a), each eligible telecommunications carrier shall contact those subscribers on an annual basis to determine whether or not the subscribers are still eligible to receive lifeline or link up services. All subscribers that do not provide documentation pursuant to NAC 704.680474(2) demonstrating their continued eligibility within 60 days will have their telephone service switched to the full rate.*

*2. In order to verify a subscriber's continued eligibility pursuant to NAC 704.680474(2)(b), each eligible telecommunications carrier shall review the list of subscribers, provided by the Department of Human Resources pursuant to NRS 707.470, who are eligible to receive lifeline or link up services. Each eligible telecommunications carrier shall contact those subscribers no longer appearing on the list to determine whether or not the subscribers are still eligible to receive lifeline or link up services. All subscribers that do not provide documentation pursuant to NAC 704.680474(2) demonstrating their continued eligibility within 60 days will have their telephone service switched to the full rate.*

**Sec. 3. *Officer certification.***

*An officer of each eligible telecommunications carrier shall certify that the eligible telecommunications is in compliance with the state of Nevada's lifeline and link up income certification procedures, and that to the best of his knowledge, documentation of income was presented. For purposes of NAC 704.680474(2)(b), the officer may rely on the information provided by the Department of Human Resources.*

**Sec. 4.** NAC 704.680474 is hereby amended to read as follows:

1. To be eligible as a qualifying low-income subscriber for the purposes of NAC 704.680475 and 704.680477:

(a) The total household gross income of the subscriber must not exceed 150% of the federally established poverty levels set forth for the number of persons in the household of that subscriber;

(b) The residential premises at which the subscriber receives telecommunication service must be the principal place of residence of the subscriber; and

(c) The subscriber must have only one telephone line serving his residential premises.

2. To demonstrate the qualification set forth in paragraph (a) of subsection 1, the subscriber must submit to the provider of telecommunication service that serves the subscriber:

(a) ~~The individual federal income tax return that the subscriber filed most recently with the Internal Revenue Service; or~~ *Documentation which demonstrates the total household gross income of the subscriber from one of the following sources:*

*(1) Most recent federal or tribal tax return; or*

*(2) Three consecutive months of all income statements for the subscriber's household within the same calendar year. Such income statements include all forms of income pursuant to 47 C.F.R. 54.400(f).*

(b) Documentation which proves that the subscriber receives benefits from one or more of the following programs of assistance:

(1) Medicaid;

(2) Food stamps;

(3) Supplemental security income;

(4) Federal public housing assistance;

(5) Low-income home energy assistance; ~~or~~

(6) ~~Aid to families with dependent children.~~ *Temporary Assistance to Needy Families; or*  
*(7) National School Lunch's free lunch program.*

*(c) Documentation must be presented and accepted by the eligible telecommunications carrier prior to enrolling the subscriber for the lifeline and link up services.*

*(d) Documentation shall be retained according to 47 C.F.R. § 54.417(a).*

**Sec. 5.** NAC 704.680476 is hereby amended to read as follows:

1. Except as otherwise provided in subsection ~~2~~ 3, an eligible telecommunications carrier shall not disconnect service provided pursuant to a lifeline program if the subscriber fails to pay charges for toll calls.

*2. A subscriber who is eligible for the lifeline and link up programs, but has unpaid toll charges, shall be enrolled if the subscriber agrees to toll blocking and to set up a payment arrangement for the unpaid toll balance. To reestablish toll service, the subscriber must pay any outstanding toll bill in full.*

3. An eligible telecommunications carrier may file with the Commission an application for a waiver from the requirements of subsection 1 *and 2*.

~~3.~~ 4. The Commission will approve an application for such a waiver only upon determining after investigation that the eligible telecommunications carrier:

(a) Would incur substantial costs to comply with the provisions of subsection 1 *and 2*;

(b) Offers, at no charge, toll limitation to its consumers that qualify as low-income ~~consumers~~ *subscribers*; and

(c) Provides service within a service area in which the level of telephone subscription among low-income ~~consumers~~ *subscribers* is equal to or greater than the national average rate of subscription for low-income ~~consumers~~ *subscribers*.

~~[4.]~~ 5. The Commission will approve or deny an application that is filed pursuant to subsection 2 within 30 days after receipt of the application.

~~[5. As used in this section, “low income consumer” means a consumer whose income is below the poverty level established for a family of four that resides within the State of Nevada.]~~

**NOTICE OF ADOPTION OF TEMPORARY REGULATION  
LCB File No. T028-05**

The Public Utilities Commission of Nevada adopted temporary regulations assigned LCB File No. T028-05 which pertain to chapter 704 of the Nevada Administrative Code.

**INFORMATIONAL STATEMENT**

**1. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.**

This matter involves an investigation into and development of proposed revisions to NAC 704 regarding changes to the Public Utilities Commission's ("Commission's") regulations as a result of the Federal Communications Commission's ("FCC") Report and Order and Further Notice of Proposed Rulemaking, FCC Order 04-87, regarding Lifeline/Link-up program benefits. A Notice of Workshop was issued on August 8, 2004. A Notice of Workshop and Request for Comments was issued on February 23, 2005. A combined Notice of Intent to Amend/Repeal Regulations, Notice of Workshop, and Notice of Hearing was issued on March 24, 2005. The foregoing notices were published in the Elko Daily Free Press, Las Vegas Review Journal, Nevada Appeal, Reno Gazette Journal, and Tonopah Times-Bonanza. Additionally, the notices were mailed to county clerks, county libraries and all persons who requested inclusion on the Commission's service list.

In addition to the public response from affected businesses discussed in #3 below, the following represents a summary of the public responses that were made to the Commission at the duly-noticed workshop held on October 5, 2004: The participants discussed what changes were needed to existing procedures to implement the FCC Order. The participants identified eight issues that needed to be addressed by the Commission with respect to Nevada's Lifeline/Link-Up program: (1) default state status; (2) income definition; (3) federal assistance programs; (4) voluntary Lifeline/Link-Up state survey; (5) Lifeline outreach; (6) unpaid toll charges; (7) eligibility recertification; and (8) eligible telecommunications carrier ("ETC") officer certification.

In addition to the public response from affected businesses discussed in #3 below, the following represents a summary of the public responses that were made to the Commission at the duly-noticed workshop held on March 18, 2005: The participants discussed the written comments and proposed amendments filed with the Commission on March 16, 2005 and March 18, 2005.

In addition to the public response from affected businesses discussed in #3 below, the following represents a summary of the public responses that were made to the Commission at the duly-noticed workshop held on April 28, 2005: The participants discussed the proposed regulation issued by the Commission on March 24, 2005. The Regulatory Operation's Staff of the Commission, Nevada Bell Telephone, d/b/a SBC Nevada, Verizon California Inc., d/b/a Verizon Nevada, and Central Telephone Company Nevada, d/b/a Sprint of Nevada and Sprint Communications Company L.P. supported the regulation and did not propose any changes. The Washoe County Senior Law Project supported the proposed regulation but wanted the

Commission to adopt a regulation or do something outside the rulemaking process with respect to requiring the companies to increase their Lifeline outreach efforts. The Attorney General's Bureau of Consumer Protection wanted the Commission to adopt enhanced outreach regulations, and wanted customers with past due local service charges to be eligible for reconnection by making an initial payment not to exceed \$25.00.

A copy of the summary may be obtained by calling the Commission at (775) 684-6101 or (702) 486-7210, or by writing to the Commission at 1150 East William Street, Carson City, Nevada 89701 or 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

**2. The number of persons who**

**(a) Attended the workshop:**

October 5, 2004: 16

March 18, 2005: 12

April 28, 2005: 12

**(b) Testified at the workshop:**

October 5, 2004: 6

March 18, 2005: 7

April 28, 2005: 6

**(c) Attended the hearing:**

May 10, 2005: 12

**(d) Testified at the hearing:**

May 10, 2005: 6

**(e) Submitted to the agency written comments:**

Written Comments were submitted to the Commission by the Regulatory Operation's Staff of the Commission; the Attorney General's Bureau of Consumer Protection; Nevada Bell Telephone, d/b/a SBC Nevada; the Nevada Telecommunications Association; Verizon California Inc., d/b/a Verizon Nevada; and the Washoe County Senior Law Project.

**3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses by notices placed in the newspapers mentioned in the response to question #1 above, by direct mailings to interested persons on the Commission's mailing list and by posting of notices at county libraries, courthouses and the Commission's website.

Appearances were made at the foregoing workshops and hearing by interested persons, including the Regulatory Operation's Staff of the Commission; the Attorney General's Bureau of Consumer Protection; Nevada Bell Telephone, d/b/a SBC Nevada; the Nevada Telecommunications Association; the State of Nevada Department of Human Resources,

Welfare Division; Verizon California Inc., d/b/a Verizon Nevada; the Washoe County Senior Law Project; AT&T; and Central Telephone Company Nevada, d/b/a Sprint of Nevada and Sprint Communications Company L.P.

Written responses were received as set forth in the response to question 2(e) above.

Written comments were filed with the Commission on October 27, 2004, December 9, 2004, December 10, 2004, March 16, 2005 and March 18, 2005.

The FCC Lifeline/Link-up Order encourages states to look at the possibility of connecting customers eligible for state Lifeline programs if customers have prior outstanding balances for local and/or long distance services. Pursuant to NAC 704.680476(1), an ETC cannot disconnect a Lifeline customer for failure to pay toll charges. However, the regulation is silent with regards to signing up eligible customers who have unpaid toll charges. Initially, Nevada Bell Telephone, d/b/a SBC Nevada opposed the Commission adopting new regulations requiring ETCs to reconnect Lifeline customers with an outstanding toll balance. However, at the workshop on April 28, 2005, all of the companies agreed to the proposed regulation requiring ETCs to reconnect Lifeline customers with an outstanding toll balance if the customer agreed to toll restriction and to set up a payment arrangement for the unpaid toll balance. Additionally, the companies participating in this docket and the Nevada Telecommunications Association opposed the Commission adopting regulations mandating additional Lifeline outreach requirements.

**4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

All of the participants, except the Attorney General's Bureau of Consumer Protection, supported the proposed regulation and did not propose any changes. The Commission did not adopt the Bureau of Consumer Protection's proposal with respect to reconnecting customers with past due charges because the Commission wanted to allow the companies flexibility in entering payment arrangements with their customers. With respect to Lifeline outreach, although the Commission did not adopt enhanced outreach regulations, the Commission ordered the ETCs to meet with the participants in this docket on an annual basis to discuss possible strategies for increasing participation in Nevada's Lifeline/Link-up program.

**5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:**

- (a) Both adverse and beneficial effects; and**
- (b) Both intermediate and long-term effects.**

The Commission has found that the regulation does not impose a direct and significant burden upon businesses in Nevada based on the following facts: (1) the regulations bring the Commission's regulations in conformance with FCC Order 04-87, regarding Lifeline/Link-up program benefits, which requires all states to adopt verification and certification procedures to document income-based eligibility for Lifeline/Link-up enrollment; (2) although there may be some additional work required by small ETCs, the economic impact will be insignificant; and (3)

the small ETCs were represented in the rulemaking proceeding and they did not claim that the proposed regulations would have an adverse economic effect on their businesses.

The proposed regulation will not have an adverse economic effect upon the public. However, the proposed regulation will have a beneficial economic effect on the public by increasing customer eligibility and participation in Nevada's Lifeline/Link-up program.

**6. The estimated cost to the agency for enforcement of the adopted regulation.**

The Commission does not believe there will be any additional cost to the Commission to enforce the adopted regulation.

**7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The Commission is not aware of any overlap or duplication by this regulation of any regulation of any other local, state or federal government agencies.

**8. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

The Commission is not aware of any provision in this regulation that is more stringent than a federal regulation which regulates the same activity.

**9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The Commission does not believe that the regulation provides for a new fee, or increases an existing fee.