

Chapter 704 of NAC

LCB File No. T010-08

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

Filed with the Secretary of State on February 5, 2009

Docket No. 07-06016

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

AUTHORITY: NRS 703.025, 704.210, 704.6873

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as Section 2 through Section 14 of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in Sections 3 through 12, inclusive, have the meanings ascribed to them in those sections.*

Sec. 3. *“Basic network service” defined. “Basic network service” has the meaning ascribed to it in NRS 704.006.*

Sec. 4. *“Basic network service provided by an alternative technology” defined. “Basic network service provided by an alternative technology” is service provided to a customer through an alternative technology, as the term is defined in NRS 704.68881(5).*

Sec. 5. *“Competitive eligible telecommunications carrier” defined. “Competitive eligible telecommunications carrier” has the meaning ascribed to it in 47 C.F.R. § 54.5.*

Sec. 6. *“Competitive supplier” defined. “Competitive supplier” has the meaning ascribed to it in NRS 704.011.*

Sec. 7. *“High-cost area” defined. “High-cost area” means an area determined by the Commission where support from the fund to maintain the availability of telephone service should be made available to eligible telecommunications carriers pursuant to NAC 704.68048*

for areas served by small-scale providers of last resort and pursuant to NAC 704.6805 for areas served by competitive suppliers who are providers of last resort.

Sec. 8. *“Incumbent local exchange carrier” defined. Incumbent local exchange carrier has the meaning ascribed to it in 47 C.F.R. § 51.5.*

Sec. 9. *“Insular: defined. “Insular” means an area that is not within or contiguous to any Metropolitan Statistical Area as defined by the Office of Management and Budget.*

Sec. 10. *“Provider of last resort” defined. “Provider of last resort” has the meaning ascribed to it in NRS 704.018.*

Sec. 11. *Small-scale provider of last resort” defined. “Small-scale provider of last resort” has the meaning ascribed to it in NRS 704.023.*

Sec. 12. *“Supported services” defined. “Supported services” has the meaning ascribed to it in 47 CFR § 54.101.*

Sec. 13. *“Telecommunication service” defined. “Telecommunication service” has the meaning ascribed to it in NRS 704.028.*

Sec. 14. 1. *A competitive supplier that is a provider of last resort may request that the Commission open a proceeding to determine that money is required to fulfill the purpose of the fund to maintain the availability of telephone service pursuant to NAC 704.68043(1).*

All providers of telecommunication service contributing to the fund to maintain the availability of telephone service may participate in the proceeding.

2. *The Commission shall:*

(a) *Determine a cost model to calculate the per-line cost for the service area or other appropriate geographic area of the competitive supplier that is a provider of last resort;*

(b) *Adopt the appropriate benchmark using the per-line costs to determine high-cost support;*

(c) *Determine the appropriate high-cost support amount, taking into account the cost of maintaining the availability of telephone service with regard to rural, insular and high-cost areas while providing for services that are reasonably comparable to those basic services available in urban areas at rates that are*

reasonably comparable to those charged in the urban areas, and the overall size of the fund to maintain the availability of telephone service.

3. *The Commission will on a biennial basis determine whether any adjustments or modifications are required to calculate the appropriate support amounts determined pursuant to subsection 2. The Commission may conduct such a proceeding annually upon its own motion or a motion from another interested person.*

Sec. 15. NAC 704.0055 is hereby amended to read as follows:

“Basic service” defined. “Basic service” means the provision of ~~[intraexchange]~~ telephone service ~~[and access to long distance services,]~~ *furnished to a customer that provides access to the public switched telephone network*, which includes a single-party ~~[or multi-party]~~ access line or trunk, ~~[a]~~ dial tone, ~~[a]~~ touch tone, local usage, expanded local calling where available, access to emergency 911 service, and single-line directory listing. *Basic service includes services provided to a customer through an alternative technology, as such term is defined in NRS 704.68881(5).*

Sec. 16. NAC 704.680415 is hereby amended to read as follows:

“Fund *to maintain the availability of telephone service* ~~[or Universal Service]~~ means *has the meaning ascribed to it in NRS 704.013. [Fund established by the Commission pursuant to NRS 704.040, which is intended to promote universal telephone service.]*

Sec. 17. NAC 704.68044 is hereby amended to read as follows:

The Administrator of the ~~[F]~~fund *to maintain the availability of telephone* ~~[for Universal S]~~service shall:

1. Conduct periodic audits of contributors to the ~~[F]~~fund *to maintain the availability of telephone* ~~[for Universal S]~~service to ensure that the correct payments are being remitted by the providers of telecommunication service.
2. Verify the qualifications of an applicant who requests support from the ~~[F]~~fund *to maintain the availability of telephone* ~~[for Universal S]~~service.
3. Collect assessments from *all persons furnishing intrastate telecommunication service or the functional equivalent of such service through any form of telephony technology, unless the levy and collection of the assessment with regard to a particular form of technology*

is prohibited by federal law ~~[each provider of telecommunication service]~~ and deposit that money into the ~~[F]~~fund *to maintain the availability of telephone* ~~[for Universal S]~~service.

4. Disburse money from the ~~[F]~~fund *to maintain the availability of telephone* ~~[for Universal S]~~service to *eligible telecommunications carriers* ~~[providers of telecommunication service]~~ who qualify for funding in accordance with NAC 704.6804 to 704.68056, inclusive, and with applicable orders of the Commission.

5. Prepare a ~~[n]~~*t least* annually *a* report of all activities of the ~~[F]~~fund *to maintain the availability of telephone* ~~[for Universal S]~~service, including:

(a) The total payments into the ~~[F]~~fund *to maintain the availability of telephone service for the reporting period* ~~[-; and]~~

(b) An itemization of all disbursements from the ~~[F]~~fund *to maintain the availability of telephone service* to each qualified *eligible telecommunications carrier* ~~[provider of telecommunication service]; 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 ~~[F]~~fund *to maintain the availability of telephone* ~~[for Universal S]~~service, which includes:

(a) The estimated amount of money required to support the Fund for the following year; and

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

Sec. 18. NAC 704.68046 is hereby amended to read as follows:

To qualify for a disbursement of money from the ~~[F]~~fund *to maintain the availability of telephone* ~~[for Universal S]~~service:

1. ~~Except as otherwise provided in subsection 2, i~~If the disbursement of money is for the purposes set forth in subsections 1 ~~to 4, inclusive~~ or 2 of NAC 704.68043, the provider of telecommunication service must:

(a) Be an eligible telecommunications carrier; ~~and~~

(b) Be a provider of last resort; and

~~(b)(c) Unless otherwise specifically authorized by the Commission,~~ *If the eligible telecommunications carrier is a small-scale provider of last resort, average its rates for basic service in a manner that is consistent with NAC 704.68085 within the service area in which it is designated as an eligible telecommunications carrier.*

2. If the disbursement of money is for the purposes set forth in subsection 3 of NAC 704.68043 to provide money to ensure that persons with low income have access to available intrastate telecommunication services, the provider of telecommunication service must:

(a) Be an eligible telecommunications carrier; and

(b) If the eligible telecommunications carrier is a small-scale provider of last resort, average its rates for basic service in a manner that is consistent with NAC 704.68085 within the service area in which it is designated as an eligible telecommunications carrier.

~~2~~3. If the disbursement of money is:

(a) For the purpose set forth in subsection 4 of NAC 704.68043; and

(b) Intended specifically to support the provision of access to an Internet service provider pursuant to the provisions of 47 C.F.R. § 54.621,

→ the provider of telecommunication service is not required to be an eligible telecommunications carrier, but must have a certificate of public convenience and necessity issued by the Commission, *be registered with the Commission pursuant to NAC 704.7862*, or be a county telephone line or system.

~~3~~4. If the disbursement of money is for the purpose set forth in subsection 5 of NAC 704.68043, the provider of telecommunication service must:

(a) Hold a certificate of public convenience and necessity issued by the Commission, *be registered with the Commission pursuant to NAC 704.7862*, or be a county telephone line or system;

- (b) Meet the requirements for eligibility set forth in 47 C.F.R. § 54.501; and
- (c) Provide services described in 47 C.F.R. § 54.502 at discounted rates pursuant to NAC 704.680469.

Sec. 19. NAC 704.680463 is hereby amended to read as follows:

1. The Commission will establish service areas to determine the area for which a provider of telecommunication service that seeks designation as an eligible telecommunications carrier:

- (a) Must provide the telecommunication services set forth in 47 C.F.R. § 54.101(a); and
- (b) Is eligible to receive federal universal service support.

2. ~~Except as otherwise provided in subsections 3, a)~~ A service area established by the Commission pursuant to subsection 1 must be identical to the study area of *a rural telecommunication provider* ~~the provider of last resort of basic service that provides basic network telecommunication service within that area~~.

3. In an area served by a nonrural *telecommunication provider* ~~telephone company~~, any person may ~~petition~~ *request and* the Commission ~~for the~~ *may establish* ~~ment of~~ a service area ~~that does not comply with the requirement set forth in subsection 2~~ *which is different from the certificated service area established by the Commission for a nonrural telecommunication provider*. In ~~determining whether to establish~~ *establishing* a ~~n alternative~~ service area *pursuant to subsection 1*, the Commission will consider:

- (a) Whether the establishment of *the* ~~an alternative~~ service area will promote competition;
- (b) Whether the establishment of *the* ~~an alternative~~ service area will promote universal service;
- (c) The potential effect that establishment of *the* ~~an alternative~~ service area may have on the ~~F~~ *fund to maintain the availability of telephone* ~~for Universal S~~ service; and
- (d) Any other factor that the Commission determines to be relevant.

4. *In an area served by a rural telecommunication provider, no person may petition the Commission for establishment of a service area that does not comply with the requirement set forth in subsection 2, unless:*

(a) *The provider of telecommunication service who seeks designation as an eligible telecommunications carrier requests the Commission to redefine the service area of the rural telecommunication provider and otherwise intends to comply with the requirements of 47 C.F.R. § 54.207; or*

(b) *The Federal Communications Commission and the Commission, after taking into account recommendations of a Federal-State Joint Board instituted under 47 U.S.C. § 410(c), establish a different definition of service area for rural telecommunication providers.*

~~4~~5. As used in this section:

(a) “Nonrural *telecommunication provider* ~~telephone company~~” means a provider of last resort ~~of basic service~~ that does not meet the definition of a rural telephone company, as that term is defined in 47 C.F.R. § 51.5.

(b) *“Rural telecommunication provider” means a provider of last resort that meets the definition of a rural telephone company, as the term is defined by 47 C.F.R. § 51.5.*

~~(b)~~(c) “Study area” means a geographic area defined by the Federal Communications Commission for each provider of last resort ~~of basic service~~.

Sec. 20. NAC 704.680464 is hereby amended to read as follows:

A provider of telecommunication service who is designated as an eligible telecommunications carrier is eligible to receive:

1. Federal universal service support pursuant to 47 C.F.R. § 54.201(a); and
2. Money from the ~~F~~fund *to maintain the availability of telephone* ~~for Universal~~ ~~S~~service for the purposes set forth in NAC 704.68043, *and under the conditions set forth in NAC 704.68046.*

Sec. 21. NAC 704.680469 is hereby amended to read as follows:

A provider of telecommunication service who provides intrastate telecommunication service to an eligible school or library shall provide such service at discounted rates:

1. In accordance with the procedures and by the percentages set forth in 47 C.F.R. § 54.505; and

2. To the extent that federal universal service support or money from the ~~F~~fund *to maintain the availability of telephone* ~~for Universal S~~service is available to reimburse the amount of the discount.

Sec. 22. NAC 704.68047 is hereby amended to read as follows:

1. A provider of telecommunication service that provides intrastate telecommunication service to an eligible school or library at a discounted rate may file an application with the Commission requesting a disbursement of money from the ~~F~~fund *to maintain the availability of telephone* ~~for Universal S~~service for the amount of the discount if:

(a) The eligible school or library has met the requirements set forth in NAC 704.680468; and

(b) Federal universal service support is not available to pay the entire amount of the discount.

2. The application filed pursuant to subsection 1 must include:

(a) The identity of each school and library to which discounts in the rates for intrastate services will be provided;

(b) A detailed description of each service that will be provided to each school and library, including, without limitation, references to intrastate tariffs on file at the Commission, if applicable;

(c) The nondiscounted rate for each service that will be provided;

(d) The percentage of discount that is applicable to each service;

(e) The difference between:

(1) The annual revenues that would be generated if the provider of telecommunication service provided the intrastate services to the schools and libraries at nondiscounted rates; and

(2) The annual revenues that will be generated at the discounted rates;

(f) Information which demonstrates that the nondiscounted rate is the lowest corresponding price charged by the provider of telecommunication service to nonresidential customers who are situated similarly to a particular school or library for similar services; and

(g) Information which demonstrates that federal universal service support is not available for the calendar year to reimburse the amount of the discount in the rate for intrastate services.

3. The Commission will issue an order approving, denying or modifying an application filed pursuant to this section within 90 days after receipt of the application.

Sec. 23. NAC 704.680472 is hereby amended to read as follows:

1. An eligible telecommunications carrier who provides telecommunication service to a public or private nonprofit provider of health care that serves persons in a rural area shall, to the extent that federal universal service support or money from the *fund to maintain the availability of telephone service* ~~[Fund for Universal Service]~~ is available, charge that provider of health care rates for available intrastate eligible telecommunications services that are no higher than the urban rates for such services, as determined pursuant to 47 C.F.R. § 54.605.

2. A provider of telecommunication service who provides access to an Internet service provider to a public or private nonprofit provider of health care that ~~[services]~~ *serves* persons in a rural area, shall provide credits for toll charges associated with such access pursuant to 47 C.F.R. § 54.621(a).

Sec. 24. NAC 704.680473 is hereby amended to read as follows:

1. A provider of telecommunication service who is designated as an eligible telecommunications carrier and who provides intrastate eligible telecommunications services to a provider of health care pursuant to NAC 704.680472 may file an application with the Commission requesting a disbursement of money from the *fund to maintain the availability of telephone service* ~~[Fund for Universal Service]~~ for an amount equal to the difference between the urban rate and the rural rate for those services, as those rates are determined pursuant to 47 C.F.R. §§ 54.605 and 54.607.

2. Any provider of telecommunication service who *offers* ~~[provides]~~ to a provider of health care intrastate access to an Internet service provider may file an application with the Commission requesting a disbursement of money from the *fund to maintain the availability of telephone service* ~~[Fund for Universal Service]~~ for the costs of the toll charges for such access.

3. A disbursement of money from the *fund to maintain the availability of telephone service* ~~[Fund for Universal Service]~~ will be made for the purposes set forth in subsections 1 and 2 only if:

(a) The provider of health care to whom the telecommunications carrier provides the discounted service meets the requirements set forth in NAC 704.680471; and

(b) Federal universal service support is not available to pay the entire amount of the discount or costs of the toll charges.

4. An application filed pursuant to this section must include:

(a) The identity of each provider of health care to which discounted intrastate services will be provided at a discounted rate;

(b) A detailed description of each service that will be provided to each provider of health care, including, without limitation, references to intrastate tariffs on file at the Commission, if applicable;

(c) The rural rate for each service that will be provided, as determined pursuant to 47 C.F.R. § 54.607;

(d) The urban rate for each service that will be provided, as determined pursuant to 47 C.F.R. § 54.605;

(e) The difference between the annual revenues that would be generated if the provider provided the intrastate services to the provider of health care at the rural rate and the annual revenues that will be generated at the urban rate;

(f) The amount of money requested to support access to an Internet service provider; and

(g) Information which demonstrates that federal universal service support is unavailable for the calendar year to pay the amount of the discount or the costs of the toll charges.

5. The Commission will issue an order approving, denying or modifying an application filed pursuant to this section within 90 days after receipt of the application.

Sec. 25. 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:

(i) **175** ~~150~~ percent of the federally established poverty levels set forth for the number of persons in the household of that subscriber *if telecommunication*

service is provided by a competitive supplier which is an incumbent local exchange carrier;

(ii) 150 percent of the federally established poverty levels set forth for the number of persons in the household of that subscriber if telecommunication service is provided by a small-scale provider of last resort, a competitive supplier which is not an incumbent local exchange carrier or is a provider of telecommunication service that has registered with the Commission pursuant to NAC 704.7862;

(b) 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;*
- (6) Temporary Assistance for Needy Families Program; or*
- (7) National School Free Lunch Program; or*

(c) The subscriber's name appears on the list provided by the Department of Health and Human Services pursuant to NRS 707.470.

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

~~(e)~~ (e) 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 ~~f~~:

~~(a)~~ ~~D~~ documentation which demonstrates the total household gross income of the subscriber from one or more of the following sources:

~~(H)~~ (a) The subscriber's most recent federal income or tribal tax return *for the subscriber's household;* or

~~(2)~~**(b)** All statements of income, as that term is defined in 47 C.F.R. § 54.400(f), for the subscriber's household for 3 consecutive months within the ~~[same calendar year]~~ *last 12 months*.

~~(b)~~**3.** *To demonstrate the qualification set forth in paragraph (b) of subsection 1, the subscriber must submit to the provider of telecommunication service that serves the subscriber* ~~(D)~~ documentation which proves that the subscriber receives benefits from one or more of the following programs of assistance:

- (a) Medicaid;
- (b) Food stamps;
- (c) Supplemental security income;
- (d) Federal public housing assistance;
- (e) Low-income home energy assistance;
- (f) Temporary Assistance for Needy Families Program; or
- (g) National School *Free* Lunch Program.

4. *To demonstrate the qualification set forth in paragraph (c) of subsection 1, the subscriber's name must appear on the current list provided by the Department of Health and Human Services.*

~~(3)~~**5.** The documentation required pursuant to subsection 2, *3 or 4, as applicable*, must be presented to and accepted by the *eligible telecommunications carrier* ~~[provider of telecommunication service]~~ before the *eligible telecommunications carrier* ~~[provider of telecommunication service]~~ may enroll the subscriber in the lifeline or link up services. An *eligible telecommunications carrier* ~~[provider of telecommunication service]~~ shall retain such documentation in accordance with 47 C.F.R. § 54.417, as that section existed on September 7, 2005.

Section 26. NAC 704.68048 is hereby amended to read as follows:

1. To qualify for money from the ~~(F)~~ *fund to maintain the availability of telephone* ~~[for Universal S]~~ service to keep basic *service* rates at an affordable level *pursuant to NAC 704.68043(1) and (2)*, a small-*scale* provider of last resort ~~[of basic service]~~ 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 basic service ~~[, exclusive of the charge for a subscriber line, must be between \$8 to \$16 for residential customers and \$16 to \$20 for business customers.]~~ *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 ~~[within these ranges]~~ *at reasonably comparable rates charged for similar services in urban areas* within the time specified by the Commission.

2. Any disputes regarding the qualification of a small-*scale* provider of last resort ~~[of basic service]~~ to receive money from the ~~[F]~~fund *to maintain the availability of telephone* ~~[for Universal S]~~service will be resolved by the Commission at the request of the Administrator or of any other interested party.

3. If a small-*scale* provider of last resort is qualified pursuant to this section to receive money from the ~~[F]~~fund *to maintain the availability of telephone* ~~[for Universal S]~~service, an opposing party who disputes that determination has the burden of demonstrating that the small-*scale* provider *of last resort* should not be allowed to receive money to support its basic service rates.

4. A small-*scale* provider of last resort ~~[of basic service]~~ who is qualified pursuant to this section to receive money from the ~~[F]~~fund *to maintain the availability of telephone* ~~[for Universal S]~~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 ~~[F]~~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 *of last resort* by the Commission ~~[for eligibility to receive money from the Fund]~~. A request for money from the ~~[F]~~fund *to maintain the availability of telephone* ~~[for Universal S]~~service is subject to audit by the Administrator or the Commission *and its Staff*.

Sec. 27. NAC 704.6805 is hereby amended to read as follows:

1. *After the Commission has conducted a proceeding pursuant to Section 14, [A large] a competitive supplier that is a provider of last resort [of basic service] may file a petition with the Commission to receive money from the [F]fund to maintain the availability of telephone [for Universal S]service to keep its rates for basic services at an affordable level. [The large provider of last resort of basic service] Such carrier has the burden of demonstrating that circumstances exist which justify its eligibility to receive money from the [F]fund to maintain the availability of telephone [for Universal S]service.*

2. The Administrator may distribute money from the [F]fund to maintain the availability of telephone [for Universal S]service for a *competitive supplier that is a [large] provider of last resort [of basic service]* pursuant to this section only to the extent authorized by the Commission.

3. *A competitive supplier that is a provider of last resort who receives funds from the Administrator for the purposes set forth in NAC 704.68043(1) or (2) shall certify to the Commission annually that it has used money from the fund to maintain the availability of telephone service for its intended purposes as set forth in NAC 704.68043 and 47 U.S.C. § 254, and shall include the following:*

a. In the case of a monthly per-line reimbursement to recover the cost of providing service determined pursuant to Section 14(2), the carrier shall provide a certification to the Commission on a Commission-approved form posted on the Commission's website and shall include:

(i) The monthly number of high-cost customers served by the eligible telecommunications carrier during the reporting period established by the Commission; and

(ii) A corporate officer of the eligible telecommunications carrier must affirm the information filed pursuant to this subsection is true and accurate by making a notarized attestation.

Sec. 28. NAC 704.68056 is hereby amended to read as follows:

1. ~~[Except as otherwise provided in subsection 2, u]~~ Upon its initial request for money from the [F]fund to maintain the availability of telephone [for Universal S]service, and once every 4 years thereafter, a *small-scale* provider of *last resort* [basic service] shall submit

sufficient information to demonstrate its level of earnings pursuant to NAC 703.27116~~[501]~~ to 703.27146, inclusive, as appropriate.

2. ~~[Except as otherwise provided in NAC 704.6805, a]~~ A provider of telecommunication service does not have to submit information on its earnings or rates if:

(a) The provider is *a competitive supplier* ~~[regulated pursuant to a plan of alternative regulation pursuant to NAC 704.68474 to 704.68498, inclusive];~~

(b) The provider is requesting a one-time disbursement of money from the ~~[F]~~*fund to maintain the availability of telephone* ~~[for Universal S]~~service to extend or improve basic service; or

(c) The provider is requesting a disbursement of money from the ~~[F]~~*fund to maintain the availability of telephone* ~~[for Universal S]~~service pursuant to NAC 704.68047 ~~or [;]704.680473 [or 704.680478].~~

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

4. *Except as otherwise provided in subsection 3, [A]*an application to the Administrator must be submitted not later than 180 days before the beginning of the calendar year for which the money is being requested. An ~~[petition]~~ *application of a competitive supplier submitted* to the Commission must be submitted not later than 270 days before the beginning of the calendar year for which the money is being requested.

5. *Except as otherwise provided in subsection 3, [F]*the Commission will issue an order which fully or partially approves or denies an ~~[petition]~~*application* submitted to it within 120 days after receiving the ~~[petition]~~*application*.

6. The Administrator shall submit his report to the Commission which sets forth the amount of money needed for the Fund 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 Administrator pursuant to this section within 90 days after the date on which the report is filed.

7. The Commission may~~[-]~~:

~~(a) For the initial year of operation of the Fund for Universal Service, specify different deadlines for the filings pursuant to NAC 704.6804 to 704.68056, inclusive; and~~

~~(b) 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.~~

TEXT OF REPEALED SECTION

NAC 704.680462 Application for temporary waiver from requirement to offer certain services by provider seeking designation as eligible telecommunications carrier; conditions for approval; period for validity of waiver. (NRS 703.025, 704.040, 704.210, 704.6873)

1. Notwithstanding the provisions of NAC 704.680461, a provider of telecommunication service who seeks designation as an eligible telecommunications carrier may file with the Commission an application for a temporary waiver from the requirement to offer:

- (a) Single-party service;
- (b) Access to enhanced 911 service; or
- (c) Toll limitation,

↳ if the provider requires additional time to complete upgrades to its network that are necessary to provide any or all of those services.

2. The Commission will approve an application for a temporary waiver that is filed pursuant to subsection 1 only upon a finding that:

- (a) Exceptional circumstances prevent the provider of telecommunication service from providing any or all of the services set forth in subsection 1; and
- (b) The provider of telecommunication service otherwise meets the requirements set forth in NAC 704.680461.

3. If the Commission approves an application for a temporary waiver pursuant to subsection 2, the Commission will specify the period for which the waiver is valid. Such a period must not be longer than the period that the Commission determines is necessary for the provider of telecommunication service to complete the necessary upgrades to its network.

4. The Commission will issue an order granting, denying or modifying an application for a temporary waiver that is filed pursuant to subsection 1 within 90 days after receipt of the application.

**NOTICE OF ADOPTION OF REGULATION
LCB FILE NO. T010-08**

The Public Utilities Commission adopted regulations assigned LCB File No. T010-08, 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 how other interested persons may obtain a copy of the summary.

Copies of the proposed temporary regulations, notice of intent to act upon the regulation and notice of workshop and hearing were sent by U.S. mail to persons who were known to have an interest in the subject of telecommunications as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Public Utilities Commission of Nevada (“PUCN”), <http://pucweb1.state.nv.us/PUCN/>, mailed to all county libraries in Nevada, published in the following newspapers:

Elko Daily Free Press
Las Vegas Review Journal
Nevada Appeal
Reno Gazette Journal
Tonopah Times-Bonanza

and posted at the following locations:

Public Utilities Commission
1150 East William Street
Carson City, Nevada 89701

Public Utilities Commission
101 Convention Center Drive, Suite 250
Las Vegas, Nevada 89109

First Judicial District Court
885 East Musser Street
Carson City, Nevada 89701

Second Judicial District Court
75 Court Street
Reno, Nevada 89501

Eighth Judicial District Court
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155

The Phase V temporary regulations establish eligibility requirements for competitive suppliers that are providers of last resort to apply to receive payments from the fund to maintain the availability of telephone service based on the need of such competitive suppliers for funding to maintain the availability of telephone service to rural, insular and high-cost areas. The proposed temporary regulations also increase the rate of lifeline eligibility pursuant to NRS 704.6873(3)(a) as amended by Assembly Bill 518. Some

participants proposed adopting a cost model to calculate the per line cost by wire center as opposed to the entire service area of the competitive supplier that is a provider of last resort. The participants proposed conducting the proceeding to determine high cost support on a biennial basis rather than on an annual basis. The participants proposed adding back in the existing language in NAC 704.680474(b) and (c). Lastly, the participants suggested other non-substantive revisions to clarify the regulation.

A copy of the transcript of the proceedings is available for review at the PUCN's website at <http://pucweb1.state.nv.us/PUCN> and at the offices of the PUCN, 1150 East William Street, Carson City, Nevada 89701 and 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

2. **The number of persons who:**
 - (a) **Attended each hearing:** December 5, 2008 - 10
 - (b) **Testified at each hearing:** December 5, 2008 - 4
 - (c) **Submitted to the agency written comments:** 8
3. **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses in the same manner as they were solicited from the public.

The summary may be obtained as instructed in the response to question #1.

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.**

The temporary regulations were adopted on December 17, 2008. They were revised as proposed above by the participants, except the regulation allows the Commission to determine a cost model to calculate the per line cost for the service area "or other appropriate geographic area" of the competitive supplier that is a provider of last resort.

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

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

- (a) Both adverse and beneficial effects:

The proposed temporary regulations will have beneficial immediate and long-term economic effects on the businesses that they are to regulate and on the public by creating a regulatory scheme intended to promote more competition in the local telephone market. Many of the new or revised regulations may benefit the public and small businesses who

are customers of telecommunication providers. For instance, they may see more competitive pricing and additional services being offered as a result of the competitive environment that A.B. 518 was meant to foster.

(b) Both immediate and long-term effects:

See Item # 5(a).

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

There is no additional cost to the agency for enforcement of these regulations.

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.

These regulations do not overlap or duplicate any federal, state, or local regulations.

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

N/A

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.

N/A

10. If the proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?

The PUCN has determined that the proposed temporary regulations do not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business. In making this determination, the PUCN adopted the findings of the Regulatory Operations Staff, which conducted a Delphi Method exercise to determine the impacts. The Delphi Method is a systematic, interactive, forecasting method based on independent inputs of selected experts.