

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

LCB File No. R181-12

Docket No. 12-03019

September 17, 2012

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

AUTHORITY: NRS 703.025, 704.210, 704.215

A REGULATION relating to the Public Utilities Commission of Nevada regarding funds to maintain the availability of telephone service.

Section 1. Chapter 704 of the Nevada Administrative Code (NAC), and more specifically, NAC 704.6804 to 704.68056 is hereby amended by adding thereto the provisions set forth in **sections 1 to 6 below and amending existing provisions as set forth in sections 7-21 below.**

Sec. 2. *“Eligible Voice Telephony Service” defined. “Eligible Voice Telephony Service” has the meaning ascribed to it in 47 C.F.R. § 54.101(a).*

Sec. 3. *“Household” defined. “Household” has the meaning ascribed to it in 47 C.F.R. § 54.400(h).*

Sec. 4. *“Income” defined. “Income” has the meaning ascribed to it in 47 C.F.R. § 54.400(f)*

Sec. 5. *“Duplicative Support” defined. “Duplicative Support” has the meaning ascribed to it in 47 C.F.R. § 54.400(g).*

Sec. 6. *Toll limitation service does not need to be offered for any Lifeline service that does not distinguish between toll and non-toll calls in the pricing of service. If an eligible telecommunications carrier charges Lifeline subscribers a fee for toll calls that is in addition to the per month or per billing cycle price of the subscriber’s Lifeline service, the carrier must offer toll limitation service at no charge to its subscribers as part of its Lifeline service.*

Sec. 7. *The Department of Health and Human Services pursuant to NRS 707.470 shall:*

- 1.** *Determine those persons who qualify for the following programs:*

- (a) *Medicaid;*
- (b) *Supplemental Nutrition Assistance Program (SNAP);*
- (c) *Supplemental security income (SSI);*
- (d) *Federal public housing assistance;*
- (e) *Low-Income Home Energy Assistance Program (LIHEAP);*
- (f) *Temporary Assistance for Needy Families program (TANF);*
- (g) *National School Lunch Program (free lunch program only);*
- (h) *Bureau of Indian Affairs general assistance;*
- (i) *Tribally administered Temporary Assistance for Needy Families (Tribal TANF);*
- (j) *Head Start (only those households meeting its income qualifying standard); and*
- (k) *the Food Distribution Program on Indian Reservations (FDPIR).*

↪ *If the Department cannot access or distribute the information for persons who may qualify for any of the programs listed in this subsection, the Department shall make an informational filing with the Commission on an annual basis to inform the Commission that it cannot access or distribute such information. This informational filing shall include any relevant information that demonstrates that the Department cannot access or distribute such information.*

~~2. — Distribute to and collect from those persons that qualify for the programs listed in subsection (1), a lifeline certification form that meets the criteria established in 47 C.F.R. 54.410(d).~~

~~3. — Create a list of eligible customers based upon those persons who satisfy subsections (1) and (2) of this section to be distributed to eligible providers every 6 months in accordance with NRS 707.470.~~

~~4. — Within 90 days of distribution of the list pursuant to NRS 707.470, each eligible telecommunications carrier must provide a list to the Department of any eligible customers that the eligible telecommunications carrier enrolled in Lifeline and request that the Department forward the certification forms from those eligible customers.~~

~~5. — Within 30 days of receiving the list from the eligible telecommunications carriers pursuant to subsection 4, the Department is required to distribute certification forms to any eligible~~

~~telecommunications carrier that requests certification forms for eligible customers that the eligible telecommunications carrier has enrolled in Lifeline -]~~

Sec. 8. NAC 704.680416 is hereby amended to read as follows:

704.680416 **“Lifeline” defined.** (NRS 703.025, 704.040, 704.210, 704.6873)

“Lifeline” has the meaning ascribed to it in 47 C.F.R. § 54.401~~[(a)]~~.

Sec. 9. NAC 704.6804165 is hereby amended to read as follows:

704.6804165 **“Tribal Link Up” defined.** (NRS 703.025, 704.040, 704.210, 704.6873)

“Tribal Link Up” has the meaning ascribed to it in 47 C.F.R. § 54.413~~[(a)]~~.

Sec. 10. NAC 704.680418 is hereby amended to read as follows:

704.680418 **“Qualifying low-income subscriber” defined.** (NRS 703.025, 704.040, 704.210, 704.6873) “Qualifying low-income subscriber” means a subscriber of telecommunication service who meets the criteria set forth in NAC 704.680474 *or 47 C.F.R. § 54.409*.

Sec. 11. NAC 704.6804215 is hereby amended to read as follows:

704.6804215 **“Toll blocking *service*” defined.** (NRS 703.025, 704.040, 704.210, 704.6873) “Toll blocking *service*” has the meaning ascribed to it in 47 C.F.R. § 54.400(b).

Sec. 12. NAC 704.680423 is hereby amended to read as follows:

704.680423 **“Toll limitation *service*” defined.** (NRS 703.025, 704.040, 704.210, 704.6873) “Toll limitation *service*” has the meaning ascribed to it in 47 C.F.R. § 54.400(d).

Sec. 13. NAC 704.68046 is hereby amended to read as follows:

704.68046 **General eligibility requirements to qualify for disbursement from fund.** (NRS 703.025, 704.040, 704.210, 704.6873, 710.140) To qualify for a disbursement of money from the fund to maintain the availability of telephone service:

1. If the disbursement of money is for the purposes set forth in subsection 1 or 2 of NAC 704.68043, the provider of telecommunication service must:

- (a) Be an eligible telecommunications carrier;
- (b) Be a provider of last resort; and
- (c) If the provider of telecommunication service 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 to ensure that persons with low income have access to available intrastate telecommunication services pursuant to subsection 3 of NAC 704.68043, the provider of telecommunication service must:

- (a) Be an eligible telecommunications carrier; and
- (b) If the provider of telecommunication service 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 the provider of telecommunication service is designated as an eligible telecommunications carrier.

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, have filed with the Commission the information required by NAC 704.7862 or be a county telephone line or system.

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, have filed with the Commission the information required by 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.

5. If the disbursement of money is for the provision of Tribal Link Up, the provider of telecommunication service must meet the requirements set forth in 47 C.F.R. § 54.414.

Sec. 14. NAC 704.680461 is hereby amended to read as follows:

704.680461 **Requirements for designation as eligible telecommunications carrier; issuance of order by Commission approving or denying application.** (NRS 703.025, 704.040, 704.210, 704.6873, 710.140)

1. A provider of telecommunication service who seeks designation as an eligible telecommunications carrier must file with the Commission an application in which the provider affirms that it:

(a) Holds a certificate of public convenience and necessity issued by the Commission that authorizes the provider of telecommunication service to provide basic service or is a county telephone line or system, *or meets the criteria set forth in subsection (2) of this section.*

(b) Offers ~~the~~ *eligible voice telephony* services described in 47 C.F.R. § 54.101 throughout the service area for which the provider of telecommunication service seeks designation as an eligible telecommunications carrier. Such services must be provided at rates and in accordance with terms that are nondiscriminatory and may be provided by the provider of telecommunication service using:

(i) Its own facilities, which may include, without limitation, facilities obtained as unbundled network elements from another provider of telecommunication services; or

(ii) A combination of its own facilities and resale of the services of another provider of telecommunication service.

(c) At least once every 3 months, advertises throughout the service area for which the provider of telecommunication service seeks designation as an eligible telecommunications carrier the availability of the services described in 47 C.F.R. § 54.101 and the rates and charges applicable to those services through prominent presentation in one or more forms of media of general distribution, including, without limitation, newspapers, television or radio.

2. *An applicant who seeks designation as an eligible telecommunications carrier for the purpose of seeking solely federal Lifeline service to eligible subscribers and for the purpose of seeking solely federal Lifeline support is not required to hold a certificate of public convenience and necessity with this Commission if the applicant is a provider of commercial mobile radio service and has met the requirements of NAC 704.786 through NAC 704.7864.*

3. *Regarding providers of telecommunication service who seek designation as eligible telecommunications carriers for the sole purpose of providing Lifeline service to eligible subscribers:*

(a) In order for the Commission to determine that a provider of telecommunications service designated for purposes of providing Lifeline service is using its own facilities to fulfill the requirement in this subsection, the Commission must find that the provider of telecommunications service is using a component of the provider's telecommunications network to transmit or route voice telephony service to subscribers in Nevada.

(b) If the provider of telecommunications service does not meet their own facilities requirement as set forth in subsection (1)(b), the provider of telecommunications service must affirm the following upon seeking designation from this Commission:

(1) it provides its Lifelines subscribers with 911 and E911 access, regardless of activation status and availability of minutes;

(2) it provides its Lifeline subscribers with E911-compliant handsets and replaces at no additional charge to the subscriber noncompliant handsets; and

(3) has had approved by the Wireline Competition Bureau of the Federal Communications Commission a compliance plan, as required by the Federal Communications Commission.

(c) The Commission shall not designate a provider of telecommunications service as an eligible telecommunications carrier for the provision of Lifeline service unless the provider of telecommunications service:

(1) has demonstrated that it is financially and technically capable of providing the supported Lifeline service in compliance with subpart E of part 54 of the Code of Federal Regulations; and

(2) has demonstrated it meets the additional requirements for designation set forth in 47 C.F.R. § 54.202.

(d) Upon designation by the Commission, an eligible telecommunications carrier shall file information with the Administrator demonstrating that the carrier's Lifeline plan meets the criteria set forth in 47 C.F.R. § 54.401 and describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional

charges, if any, for toll calls, and rates for each such plan. To the extent the eligible telecommunications carrier offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding such plans, such as a link to a public website outlining the terms and conditions of such plans.

4. The Commission will issue an order approving or denying an application filed pursuant to subsection 1 within ~~90~~135 days after receipt of the application.

Sec. 15. NAC 704.680463 is hereby amended to read as follows:

704.680463 **Establishment of service areas.** (NRS 703.025, 704.040, 704.210, 704.6873)

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~~ *eligible voice telephony* services set forth in 47 C.F.R. § 54.101(a); and

(b) Is eligible to receive federal universal service support.

2. A rural service area established by the Commission pursuant to subsection 1 must be identical to the study area of a provider of telecommunication service within a rural area.

3. In an area served by a nonrural provider of telecommunication service, any person may request and the Commission may establish a service area that is different from the area designated in the provider's certificate of public convenience and necessity.

4. In determining whether to establish a service area, the Commission will consider:

(a) Whether the establishment of the service area will promote competition;

(b) Whether the establishment of the service area will promote universal service;

(c) The potential effect that establishment of the service area may have on the fund to maintain the availability of telephone service; and

(d) Any other factor that the Commission determines to be relevant.

5. In an area served by a rural provider of telecommunication service, a person may not request that the Commission establish a service area that does not comply with the provision of subsection 2 unless:

(a) The provider of telecommunication service who seeks designation as an eligible telecommunications carrier:

(1) Requests that the Commission redefine the service area of the provider; and

(2) Otherwise intends to comply with the requirements of 47 C.F.R. § 54.207; or

(b) The Federal Communications Commission and the Public Utilities Commission of Nevada, after taking into account the recommended decision of a Federal-State Joint Board pursuant to 47 U.S.C. § 410(c), establish a different definition of “service area” for rural providers of telecommunication service.

6. As used in this section:

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

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

Sec. 16. NAC 704.680467 is hereby amended to read as follows:

NAC 704.680467 **Revocation of designation as eligible telecommunications carrier.**
(NRS 703.025, 704.040, 704.210, 704.6873)

The Commission may, upon its own motion or upon receipt of a complaint filed by any person, revoke the designation of a provider of telecommunication service as an eligible telecommunications carrier if the Commission determines, after investigation and a hearing, that the provider of telecommunication service has failed to meet the requirements set forth in NAC 704.680461, *or 47 C.F.R. Part 54*.

Sec. 17. NAC 704.680474 is hereby amended to read as follows:

704.680474 **Criteria for eligibility as qualifying low-income subscriber; documentation of qualification.** (NRS 703.025, 704.040, 704.210, 704.6873)

1. To be eligible as a qualifying low-income subscriber for the purposes of NAC 704.680475 and 704.680477, *prospective subscribers must return Lifeline certification forms provided by the eligible telecommunications carriers, in accordance with 47 C.F.R. § 54.410(d) and:*

(a) The total household gross income of the subscriber *as defined in 47 C.F.R. § 54.500(f)*, must not exceed:

(1) One hundred seventy-five percent of the federally established poverty levels set forth for the number of persons in the household of that subscriber if a competitive supplier that is an incumbent local exchange carrier provides telecommunication service; or

(2) One hundred fifty 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:

(i) A small-scale provider of last resort;

(ii) A competitive supplier that is not an incumbent local exchange carrier; or

(iii) A provider of telecommunication service that has filed with the Commission the information required by NAC 704.7862; *or*

(b) The name of the subscriber must appear on the list provided by the Department of Health and Human Services pursuant to NRS 707.470 or the subscriber, *one or more of the subscriber's dependents, or the subscriber's household* must receive benefits from one or more of the following programs of assistance:

(1) Medicaid;

(2) *Supplemental Nutrition Assistance Program (SNAP)* ~~Food stamps~~;

(3) Supplemental security income (*SSI*);

(4) Federal public housing assistance;

(5) Low-Income Home Energy Assistance *Program (LIHEAP)*;

(6) Temporary Assistance for Needy Families program (*TANF*); ~~or~~

(7) National School Lunch Program (*free lunch program only*);

(8) *Bureau of Indian Affairs general assistance*;

(9) *Tribally administered Temporary Assistance for Needy Families (Tribal TANF);*

(10) *Head Start (only those households meeting its income qualifying standard); or*

(11) *the Food Distribution Program on Indian Reservation (FDPIR).*

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

~~(d) —The subscriber must have only one telephone line serving his or her residential premises.]~~

2. *The subscriber must not already be receiving a Lifeline service, and there must not be anyone else in the subscriber's household concurrently subscribed to Lifeline service. There may be more than one household at a physical address, but the subscriber must affirmatively certify that other Lifeline recipients at that physical address are part of a separate household as the term is defined in this Chapter.*

3. To demonstrate the qualification set forth in paragraph (a) of subsection 1, the subscriber must submit, *and the eligible telecommunications carrier must review, documentation demonstrating that a prospective subscriber meets the income-eligibility criteria set forth in paragraph (a) of subsection 1. Acceptable documentation of income eligibility includes the prior year's state, federal, or Tribal tax return; current income statement from an employer or paycheck stub; a Social Security statement of benefits; a Veterans Administration statement of benefits; a retirement/pension statement of benefits; an Unemployment/Workers' Compensation statement of benefit; federal or Tribal notice letter of participation in General Assistance; or a divorce decree, child support award, or other official document containing income information. If the prospective subscriber presents documentation of income that does not cover a full year, such as current pay stubs, the prospective subscriber must present the same type of documentation covering three consecutive months within the previous twelve months.* ~~[to the provider of telecommunication service that serves the subscriber documentation which demonstrates the total household gross income of the subscriber from one or more of the following sources:~~

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

~~(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 12 months preceding the anticipated initiation of service to be provided pursuant to a Lifeline program.]~~

~~[3.]4.~~ To demonstrate the qualifications set forth in subparagraphs (1) to (11[7]), inclusive, of paragraph (b) of subsection 1, the subscriber must submit, *and the eligible telecommunications carrier must review, documentation demonstrating that a prospective subscriber qualifies for Lifeline support under the program-based eligibility requirements. Acceptable documentation of program eligibility includes the current or prior year's statement of benefits from a qualifying assistance program, a notice or letter of participation in a qualifying assistance program, program participation documents, or another official document demonstrating that the prospective subscriber, one or more of the prospective subscriber's dependents, or the prospective subscriber's household receives benefits from a qualifying assistance program.* ~~[to the provider of telecommunication service that serves the subscriber 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 Lunch Program.]~~

~~[4.]5.~~ *An eligible telecommunications carrier must not retain copies of the documentation of a subscriber's income-based or program-based eligibility for Lifeline support in accordance with 47 C.F.R. § 54.510(b)(1)(ii) or 47 C.F.R. § 54.510(c)(1)(ii).*

6. *An eligible telecommunications carrier must, consistent with 47 C.F.R. § 54.417, keep and maintain accurate records detailing the data source a carrier used to determine a subscriber's income-based or program-based eligibility or the documentation a subscriber provided to demonstrate his or her eligibility for Lifeline support.*

7. ~~[The documentation required pursuant to subsection 2 or 3, as applicable, must be presented to and accepted by the provider of telecommunication service] [b]B~~efore the provider

of telecommunication service may enroll the subscriber in ~~[the]~~Lifeline ~~[or Link-Up]~~ services, *the provider of telecommunication service shall:*~~[:]~~ ~~[A 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.]~~

(a) *Collect the certification form required pursuant to subsection 1 from the eligible customer or the Department, as applicable; and*

(b) *Review the documentation required pursuant to subsection 3 or 4, as applicable.*

Sec. 18. NAC 704.6804743 is hereby amended to read as follows:

704.6804743 ~~[Verification]~~ ***Recertification of continued eligibility as qualifying low-income subscriber.*** (NRS 703.025, 704.040, 704.210, 704.6873)

1. An eligible telecommunications carrier shall ~~[verify]~~*recertify, as outlined in 47 C.F.R. § 54.410(f)-(g)*, that each subscriber of the eligible telecommunications carrier who receives Lifeline ~~service~~~~[or Link-Up services]~~ remains eligible to receive *that service*. *By December 31, 2012, all eligible telecommunications carriers must re-certify the eligibility of their Lifeline subscribers that were subscribers as of June 1, 2012. Recertification in calendar year 2013 and beyond may be completed by the Universal Service Administrative Company (USAC) on behalf of an eligible telecommunications carrier, if such a process is available for election. If the USAC re-certification process is not available, all eligible telecommunications carriers must perform the recertification until such time that the USAC commences the re-certification process on behalf of eligible telecommunications carriers. ~~[those services as follows:~~*

~~(a) — To verify the continued eligibility of a subscriber who submitted documentation in accordance with subsection 2 of NAC 704.680474 to establish eligibility to receive Lifeline or Link-Up services, the eligible telecommunications carrier shall annually contact the subscriber and request that the subscriber provide to the eligible telecommunications carrier updated documentation in accordance with subsection 2 of NAC 704.680474 which demonstrates that the subscriber remains eligible to receive Lifeline or Link-Up services.~~

~~(b) — To verify the continued eligibility of a subscriber who submitted documentation pursuant to subsection 3 of NAC 704.680474 to establish eligibility to~~

~~receive Lifeline or Link Up services, the eligible telecommunications carrier shall review the list provided by the Department of Health and Human Services pursuant to NRS 707.470 of persons who are eligible to receive Lifeline or Link Up services. If the name of a subscriber no longer appears on the list, the eligible telecommunications carrier shall contact the subscriber and request that the subscriber provide to the eligible telecommunications carrier updated documentation in accordance with subsection 3 of NAC 704.680474 demonstrating that the subscriber remains eligible to receive Lifeline or Link Up services.~~

~~2. — If a subscriber fails to provide the updated documentation pursuant to subsection 1 within 60 days after receiving a request for the documentation, the subscriber shall be deemed to be ineligible to receive Lifeline or Link Up services, and the eligible telecommunications carrier shall switch the rate for telephone service for the subscriber to the regular rate for telephone service.]~~

Sec. 19. NAC 704.6804745 is hereby amended to read as follows:

704.6804745 **Certification of compliance with procedures for certifying income established for Lifeline and *Tribal* Link Up programs.** (NRS 703.025, 704.040, 704.210, 704.6873) An officer or other authorized representative of an eligible telecommunications carrier shall certify that the eligible telecommunications carrier is in compliance with the procedures for certifying income established for the Lifeline and *Tribal* Link Up programs in this State and shall *make and submit to the Commission the annual certifications, under penalty of perjury, relating to the Lifeline program that are required by 47 C.F.R. § 54.416.* ~~[certify that, to the best of his or her knowledge, documentation of income was presented by each subscriber as required in NAC 704.680474 and 704.6804743. For the purposes of this section, the officer or authorized representative may rely on the information provided by the Department of Health and Human Services as evidence that a subscriber is receiving benefits from a program of assistance described in subsection 3 of NAC 704.680474.]~~

Sec. 20. NAC 704.680475 is hereby amended to read as follows:

704.680475 **Offering of Lifeline and *Tribal* Link Up services by eligible telecommunications carrier.** (NRS 703.025, 704.040, 704.210, 704.6873)

1. An eligible telecommunications carrier shall offer to subscribers within its service area the following services:

- (a) Lifeline; and
- (b) Link Up *in tribal lands*.

2. In offering Lifeline service pursuant to subsection 1, an eligible telecommunications carrier shall offer to qualifying low-income subscribers such Lifeline discounts as are necessary to enable the carrier to comply fully with the directives of the Federal Communications Commission, including, without limitation, 47 C.F.R. § 54.403.

Sec. 21. NAC 704.680476 is hereby amended to read as follows:

704.680476 ***De-enrollment and Disconnection of Lifeline service; enrollment of subscriber with unpaid toll charges into Lifeline or Tribal Link Up program; waiver of requirements.*** (NRS 703.025, 704.040, 704.210, 704.6873)

1. If an eligible telecommunications carrier has a reasonable basis to believe that a Lifeline subscriber no longer meets the criteria to be considered a qualifying low-income consumer, the carrier must notify the subscriber of impending termination of his or her Lifeline service. Notification of impending termination must be sent in writing, separate from the subscriber's monthly bill if one is provided, and must be written in clear, easily understood language. The carrier must allow a subscriber 30 days following the date of the impending termination letter required to demonstrate continued eligibility for Lifeline. A subscriber making such a demonstration must present proof of continued eligibility to the carrier consistent with applicable annual re-certification requirements. An eligible telecommunications carrier must terminate any subscriber who fails to demonstrate continued eligibility within the 30-day time period.

2. Upon notification from the Universal Service Administrative Company (USAC) to any eligible telecommunications carrier that a subscriber is receiving Lifeline service from another eligible telecommunications carrier or that more than one member of a subscriber's household is receiving Lifeline service and, therefore, that the subscriber should be de-enrolled from participation in that carrier's Lifeline program, the eligible telecommunications carrier must de-enroll the subscriber from participation in that carrier's Lifeline program within five business days. An eligible telecommunications carrier shall not be eligible for Lifeline reimbursement for any de-enrolled subscriber following the date of that subscriber's de-enrollment.

3. *Notwithstanding paragraph (1) of this section, if a Lifeline subscriber fails to use, as “usage” is defined in 47 C.F.R. § 54.407(c)(2), for 60 consecutive days a Lifeline service that does not require the eligible telecommunications carrier to assess or collect a monthly fee from its subscribers, an eligible telecommunications carrier must provide the subscriber 30 days’ notice, using clear, easily understood language, that the subscriber’s failure to use the Lifeline service within the 30-day notice period will result in service termination for non-usage under this paragraph. If the subscriber uses the Lifeline service within 30 days of the carrier providing such notice, the eligible telecommunications carrier shall not terminate the subscriber’s Lifeline service.*

4. *An eligible telecommunications carrier must de-enroll a Lifeline subscriber who does not respond to the carrier’s attempts to obtain re-certification of the subscriber’s continued eligibility. Prior to de-enrolling a subscriber under this paragraph, the eligible telecommunications carrier must notify the subscriber in writing, separate from the subscriber’s monthly bill, if one is provided using clear, easily understood language, that failure to respond to the re-certification request within 30 days of the date of the request will trigger de-enrollment. If a subscriber does not respond to the carrier’s notice of impending de-enrollment, the carrier must de-enroll the subscriber from Lifeline within five business days after the expiration of the subscriber’s time to respond to the re-certification efforts.*

5. ~~Except as otherwise provided in subsection 3, an~~ An eligible telecommunications carrier shall not disconnect service provided pursuant to a Lifeline program ~~if~~ *solely because* the subscriber fails to pay charges for toll calls.

~~2.~~6. An eligible telecommunications carrier shall enroll a subscriber who is eligible for the Lifeline program or the *Tribal* Link Up program, or both, but who has outstanding unpaid toll charges if the subscriber agrees to toll blocking *service* and sets up a payment arrangement with the carrier for the payment of the unpaid toll charges. To reestablish toll service, the subscriber must pay the outstanding toll charges in full.

~~3.~~7. An eligible telecommunications carrier may file with the Commission an application for a waiver from the requirements of subsections ~~4~~5 and ~~2~~6.

~~4.~~8. 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 subsections ~~[1]5~~ and ~~[2]6~~;

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

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

~~[5-]9~~. The Commission will approve or deny an application that is filed pursuant to subsection ~~[3]7~~ within 30 days after receipt of the application.

Sec. 22. NAC 704.680477 is hereby amended to read as follows:

704.680477 **Charging of service deposit for initiation of Lifeline service.** (NRS 703.025, 704.040, 704.210, 704.6873)

1. Except as otherwise provided in subsection 2, an eligible telecommunications carrier shall not charge a service deposit to initiate service provided pursuant to a Lifeline program if the qualifying low-income subscriber elects voluntarily to receive toll blocking *service* from the carrier.

2. An eligible telecommunications carrier may charge a service deposit to initiate service provided pursuant to a Lifeline program if the qualifying low-income subscriber does not elect voluntarily to receive toll blocking *service* or if toll blocking *service* is unavailable.

Sec. 23. NAC 704.680422 is hereby repealed.