

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

LCB File No. R143-13

Effective October 24, 2014

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

AUTHORITY: §§1-10 and 12-30, NRS 703.025, 704.040, 704.210 and 704.6873; §11, NRS 703.025 and 704.210.

A REGULATION relating to telecommunications; revising provisions governing eligibility for and provision of Lifeline and Tribal Link Up telecommunication services; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Public Utilities Commission of Nevada to regulate public utilities that provide telecommunication service to the public. (Chapter 704 of NRS) Additionally, existing law requires the Commission to adopt regulations relating to the provision of Lifeline service, a program of the Federal Government that provides discounts on monthly telephone service for eligible low-income customers. (NRS 704.6873) This regulation revises certain regulations governing eligibility for, the services offered pursuant to and the provision of Lifeline service in this State to be consistent with recent changes to the federal regulations governing the program.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *“Eligibility Administrator” means the independent administrator with whom the Commission has contracted pursuant to paragraph (a) of subsection 6 of NRS 704.040.*

Sec. 3. *“Eligibility responsibility party” means:*

1. Before the date established by the Commission pursuant to section 6 of this regulation, each eligible telecommunications carrier; and

2. On and after the date established by the Commission pursuant to section 6 of this regulation, the Eligibility Administrator.

Sec. 4. “Eligible voice telephony services” means the services which an eligible telecommunications carrier must offer pursuant to 47 C.F.R. § 54.101(b) to receive federal universal service support.

Sec. 5. 1. The Commission will select and contract with an Eligibility Administrator and a Fund Administrator through the use of open competitive bidding based upon a scope of work issued by the Commission.

2. The Commission may select and contract with the same person or different persons to act as the Eligibility Administrator and the Fund Administrator.

Sec. 6. 1. The Commission will, by order, determine the date on which the responsibility for certifying, recertifying and responding to prospective Lifeline subscribers and making eligibility determinations as set forth in NAC 704.6804 to 704.68056, inclusive, and sections 2 to 10, inclusive, of this regulation is transferred from eligible telecommunications carriers to the Eligibility Administrator.

2. On and after the date determined by the Commission pursuant to subsection 1, eligible telecommunications carriers may refer prospective Lifeline subscribers to the Eligibility Administrator for certification and recertification of eligibility for Lifeline service.

Sec. 7. The Eligibility Administrator shall:

1. Maintain the confidentiality of all customer and carrier data received by the Eligibility Administrator;

- 2. Prepare and distribute Lifeline certification and recertification forms that are consistent with the requirements of 47 C.F.R. § 54.410(d) and the applicable provisions of state law;*
- 3. Receive and respond to requests for Lifeline service, including, without limitation, providing customers with Lifeline certification forms and receiving from customers completed Lifeline certification forms and documents demonstrating that a prospective subscriber is qualified for Lifeline service pursuant to NAC 704.680474;*
- 4. Create and maintain a database of customers who apply for and receive Lifeline service which contains the information required by 47 C.F.R. § 54.404(b);*
- 5. Interact with state and federal agencies to obtain information to determine whether a prospective subscriber is qualified for Lifeline service pursuant to NAC 704.680474;*
- 6. Query the National Lifeline Accountability Database to verify eligibility for certification of applicants in the database created pursuant to subsection 4;*
- 7. Determine whether applicants are eligible for Lifeline service, provide notice of such determinations to each applicant and the eligible telecommunications carrier selected by each applicant and, if applicable, provide to the eligible telecommunications carrier a copy of the certification of the applicant; and*
- 8. Recertify continued subscriber eligibility in accordance with 47 C.F.R. § 54.410(f) and NAC 704.6804743 and provide notice to the eligible telecommunications carrier of record, as determined by the records maintained by the Eligibility Administrator and the National Lifeline Accountability Database, as to whether a subscriber continues to be eligible for Lifeline service.*

Sec. 8. 1. *An eligible telecommunications carrier is not required to offer toll limitation service if the Lifeline service offered by the eligible telecommunications carrier does not distinguish between toll and non-toll calls in the pricing of service.*

2. *If an eligible telecommunications carrier charges a fee for toll calls that is in addition to the per-month or per-billing cycle price of the Lifeline services provided to a qualifying low-income subscriber, the eligible telecommunications carrier shall offer toll limitation service at no charge to the qualifying low-income subscriber.*

Sec. 9. 1. *If the Department of Health and Human Services maintains a list of persons who are eligible to receive benefits from one or more of the following programs of assistance:*

- (a) Medicaid;*
- (b) The Supplemental Nutrition Assistance program;*
- (c) The Supplemental Security Income Program;*
- (d) Federal public housing assistance;*
- (e) The Low-Income Home Energy Assistance Program;*
- (f) The Temporary Assistance for Needy Families program;*
- (g) The National School Lunch Program;*
- (h) Bureau of Indian Affairs general assistance;*
- (i) Tribally administered Temporary Assistance for Needy Families;*
- (j) Head Start; or*
- (k) The Food Distribution Program on Indian Reservations,*

↪ the Department may, consistent with the provisions of NRS 707.485, provide to the eligibility responsibility party a list of such persons for the exclusive purpose of determining or verifying the status of a qualifying low-income subscriber.

2. If the Department of Health and Human Services determines that it cannot gain access to or distribute any information described in subsection 1, the Department may submit to the Commission an informational filing explaining the Department's determination, which may include, without limitation, any information and citation to any relevant law or regulation that supports the Department's determination that it cannot gain access to or distribute the information described in subsection 1.

Sec. 10. 1. *A provider of telecommunication service who seeks designation as an eligible telecommunications carrier pursuant to NAC 704.680461 for the sole purpose of providing Lifeline services to qualifying low-income subscribers:*

(a) May satisfy the requirements of paragraph (b) of subsection 1 of NAC 704.680461 if the Commission determines that the provider of telecommunication service is using a component of the telecommunications network of the provider to transmit or route eligible voice telephony services to qualifying low-income subscribers in this State.

(b) That does not provide telecommunication service using its own facilities must affirm in its application filed with the Commission pursuant to NAC 704.680461 that the provider of telecommunication service:

(1) Provides to its qualifying low-income subscribers access to emergency 911 service and enhanced 911 service, regardless of activation status and availability of minutes;

(2) Provides to its qualifying low-income subscribers handsets which are capable of providing access to enhanced 911 service and replaces at no additional charge any handset which is not capable of providing access to enhanced 911 service; and

(3) Has a plan for compliance which has been approved by the Wireline Competition Bureau of the Federal Communications Commission.

2. The Commission will not designate a provider of telecommunication service as an eligible telecommunications carrier unless the provider of telecommunication service has demonstrated that the provider:

(a) Is financially and technically capable of providing Lifeline service in compliance with 47 C.F.R. Part 54, Subpart E; and

(b) Meets all the requirements for designation set forth in 47 C.F.R. § 54.202.

3. Upon designation by the Commission as an eligible telecommunications carrier, the eligible telecommunications carrier shall file with the Fund Administrator information demonstrating that the eligible telecommunications 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 qualifying low-income subscribers, including, without limitation, details concerning the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and the rates for each plan. To the extent that the eligible telecommunications carrier offers plans to qualifying low-income subscribers that are generally available to the public, the eligible telecommunications carrier may provide summary information regarding such plans, including providing such information through a link to a public Internet website which outlines the terms and conditions of such plans.

Sec. 11. NAC 704.409 is hereby amended to read as follows:

704.409 1. A customer may be required to pay a deposit or the balance of a deposit if the customer has unsatisfactory credit or cannot establish credit in any other manner permitted by subsection 2 of NAC 704.4085 and:

(a) He or she has not previously paid a deposit;

(b) He or she has paid less than the full amount of the deposit otherwise required pursuant to subsection 4; or

(c) His or her deposit has been returned in whole or in part, applied to his or her account, or treated as part of a new deposit.

2. If a customer cannot establish credit in any other manner permitted by subsection 2 of NAC 704.4085 the utility may, for the purpose of determining *whether* the customer will be required to pay a deposit, consider:

(a) Whether the customer has been continuously employed by the same employer for at least 1 year;

(b) In the case of a customer who has recently been divorced or separated and is applying for service in his or her own name, the record of payment for any service previously furnished to his or her household; and

(c) Any other factor set forth in the tariff of the utility.

3. Any deposit paid by a customer must be paid in cash. Unless there is reason to believe that the customer has defrauded, is defrauding, or intends to defraud the utility, or other good cause exists, a deposit may be paid by mail.

4. The amount of any deposit required or held by a utility may not exceed:

(a) In the case of a customer with unsatisfactory credit for whom the utility can determine actual usage, twice the customer's average monthly bill for service, including toll service; *or*

(b) ~~In the case of an elderly customer who qualifies for assistance under the Link Up America program, except one to whom paragraph (a) applies, 50 percent of the amount established pursuant to paragraph (c); or~~

~~—(e)~~ In any other case, \$100 or an amount equal to twice the average estimated monthly bill for service, whichever is less.

Sec. 12. NAC 704.6804 is hereby amended to read as follows:

704.6804 As used in NAC 704.6804 to 704.68056, inclusive, *and sections 2 to 10, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 704.68041 to 704.680424, inclusive, *and sections 2, 3 and 4 of this regulation* have the meanings ascribed to them in those sections.

Sec. 13. NAC 704.68041 is hereby amended to read as follows:

704.68041 ~~“Administrator”~~ *“Fund Administrator”* means the independent ~~Administrator~~ *administrator* selected by the Commission *pursuant to subsection 5 of NRS 704.040* to administer the fund to maintain the availability of telephone service.

Sec. 14. NAC 704.680416 is hereby amended to read as follows:

704.680416 “Lifeline” has the meaning ascribed to it in 47 C.F.R. § ~~54.401(a)~~ *54.401*.

Sec. 15. NAC 704.6804165 is hereby amended to read as follows:

704.6804165 ~~“Link”~~ *“Tribal Link Up”* has the meaning ascribed to it in ~~47 C.F.R. § 54.411(a)~~ *NRS 707.460*.

Sec. 16. NAC 704.680418 is hereby amended to read as follows:

704.680418 “Qualifying low-income subscriber” means a subscriber of telecommunication service who meets the criteria set forth in NAC 704.680474 ~~or~~ *or 47 C.F.R. § 54.409*.

Sec. 17. NAC 704.6804215 is hereby amended to read as follows:

704.6804215 “Toll blocking ~~”~~ *service”* has the meaning ascribed to it in 47 C.F.R. § 54.400(b).

Sec. 18. NAC 704.680423 is hereby amended to read as follows:

704.680423 “Toll limitation ~~+~~ *service*” has the meaning ascribed to it in 47 C.F.R. § 54.400(d).

Sec. 19. NAC 704.68046 is hereby amended to read as follows:

704.68046 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 service, the provider of telecommunication service must satisfy the requirements set forth in 47 C.F.R. § 54.414.

Sec. 20. NAC 704.680461 is hereby amended to read as follows:

704.680461 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) ~~Hold~~ *Except as otherwise provided in subsection 2, 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.

(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:

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

(2) 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~~ *eligible voice telephony* 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 is not required to hold a certificate of public convenience and necessity if the applicant:*

(a) Seeks the designation for the sole purpose of providing Lifeline service to qualifying low-income subscribers; and

(b) Is a provider of commercial mobile radio service that satisfies the requirements of NAC 704.786, 704.7862 and 704.7864.

3. 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. 21. NAC 704.680463 is hereby amended to read as follows:

704.680463 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);~~ *eligible voice telephony services;* 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. 22. NAC 704.680467 is hereby amended to read as follows:

704.680467 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. 23. NAC 704.680472 is hereby amended to read as follows:

704.680472 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 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 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 704.680474 is hereby amended to read as follows:

704.680474 1. To be eligible as a qualifying low-income subscriber for the purposes of NAC 704.680475 and 704.680477 ~~†~~, *a prospective subscriber must not currently be receiving Lifeline service, there must not be any other person in the prospective subscriber's household who is currently receiving Lifeline service and:*

(a) The total household gross income, *as described in 47 C.F.R. § 54.400(f)*, of the *prospective* subscriber must not exceed ~~†~~
~~— (1) One hundred seventy-five†~~ 175 percent of the federally established poverty levels set forth for the number of persons in the household of that *prospective* 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]~~ *prospective* subscriber , *one or more of the prospective subscriber's dependents or the prospective subscriber's household* must receive benefits from one or more of the following programs of assistance:

(1) Medicaid;

(2) ~~[Food stamps;]~~ *The Supplemental Nutrition Assistance program;*

(3) *The* Supplemental ~~[security income;]~~ *Security Income Program;*

(4) Federal public housing assistance;

(5) *The* Low-Income Home Energy Assistance ~~[;]~~ *Program;*

(6) *The* Temporary Assistance for Needy Families program; ~~[or]~~

(7) *The* National School Lunch Program;

~~[(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.]~~

(8) Bureau of Indian Affairs general assistance;

(9) Tribally administered Temporary Assistance for Needy Families;

(10) Head Start; or

(11) The Food Distribution Program on Indian Reservations.

2. *For the purposes of subsection 1, there may be more than one household at a single physical address, but a prospective subscriber must affirmatively certify that any other person who receives Lifeline service at the same physical address is not a member of the prospective subscriber's household.*

3. To demonstrate *that he or she meets* the ~~{qualification}~~ *income-eligibility requirements* set forth in paragraph (a) of subsection 1, the *prospective* subscriber must submit to the ~~{provider of telecommunication service that serves the subscriber}~~ *eligibility responsibility party, and the eligibility responsibility party must review*, documentation which demonstrates *that* 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.}~~ *prospective subscriber meets the income-eligibility requirements set forth in that paragraph. Such documentation must, at a minimum, cover any period of 3 consecutive months during the 12-month period immediately preceding the date of application, and may include, without limitation:*

(a) State or federal income or tribal tax returns from the year immediately preceding the date of application;

(b) Current income statements from an employer or paycheck stubs;

- (c) *A statement of benefits from the Social Security Administration;*
- (d) *A statement of benefits from the United States Department of Veterans Affairs;*
- (e) *A statement of benefits from a pension or benefit program;*
- (f) *A statement of benefits from an unemployment or workers' compensation program;*
- (g) *A notice letter of participation in federal or tribal general assistance;*
- (h) *A divorce decree or child support award; or*
- (i) *Any other documentation which contains income information.*

4. To demonstrate *compliance with* the ~~[qualifications]~~ *requirements* set forth in ~~[subparagraphs (1) to (7), inclusive, of]~~ paragraph (b) of subsection 1, the *prospective* subscriber must submit to the ~~[provider of telecommunication service that serves the subscriber]~~ *eligibility responsibility party, and the eligibility responsibility party must review*, documentation which proves that the *prospective* 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. The documentation required pursuant to subsection 2 or 3, as applicable, must be presented to and accepted by the provider of telecommunication service before the provider of telecommunication service may enroll the subscriber in the Lifeline or Link Up services. 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.]~~ *meets the relevant program-based eligibility requirements for Lifeline service. Such documentation may include, without limitation:*

(a) A statement of benefits from the relevant program of assistance for the year in which the prospective subscriber is applying for Lifeline service or for the year immediately preceding the date of application;

(b) A notice or letter of participation from the relevant program of assistance; or

(c) Any other official documentation which demonstrates that the prospective subscriber, one or more of the prospective subscriber's dependents or the prospective subscriber's household is receiving benefits from the relevant program of assistance.

5. Before an eligible telecommunications carrier may enroll the prospective subscriber in Lifeline service, the eligibility responsibility party shall:

(a) Collect from the prospective subscriber or the eligible telecommunications carrier, as applicable, the certification documentation required by 47 C.F.R. § 54.410(d);

(b) Review the information submitted to the eligibility responsibility party pursuant to subsection 3 or 4, as applicable;

(c) Query the National Lifeline Accountability Database to ensure that the subscriber is not already receiving Lifeline service; and

(d) If the eligibility responsibility party is the Eligibility Administrator, provide to each eligible telecommunications carrier copies of the certifications.

6. The eligibility responsibility party shall retain copies of the documentation concerning the subscriber's income-based or program-based eligibility for Lifeline service only in

accordance with the provisions of this section and 47 C.F.R. §§ 54.410(b)(1)(ii) and 54.410(c)(1)(ii).

7. The eligibility responsibility party shall, consistent with the provisions of 47 C.F.R. §§ 54.410 and 54.417, keep and maintain accurate records concerning:

(a) The source from which the eligibility responsibility party obtained the information used to determine the subscriber's income-based or program-based eligibility for Lifeline service; and

(b) The documentation provided by the subscriber to the eligibility responsibility party to demonstrate the subscriber's eligibility for Lifeline service.

Sec. 25. NAC 704.6804743 is hereby amended to read as follows:

704.6804743 ~~{1.—An eligible telecommunications carrier shall verify}~~ *The eligibility responsibility party shall, in the manner prescribed in 47 C.F.R. §§ 54.410(f) and 54.410(g), recertify* that each subscriber of the eligible telecommunications carrier who receives Lifeline ~~{or Link Up services}~~ *service* remains eligible to receive ~~{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} that service. *If the eligibility responsibility party is the Eligibility Administrator, the eligibility responsibility party shall, for each subscriber for whom an eligible telecommunications carrier is the current carrier of record, provide to the eligible telecommunications carrier copies of the recertifications and any other information necessary for the eligible telecommunications carrier to comply with 47 C.F.R. § 54.416. The eligibility responsibility party shall provide such information to the eligible telecommunications carrier at least 30 days before the date of the annual filings required by federal law, including the filing of FCC Form 555.*~~

Sec. 26. NAC 704.6804745 is hereby amended to read as follows:

704.6804745 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 *or that the eligible telecommunications carrier has relied upon the Eligibility Administrator to certify eligibility for all new subscribers for the Lifeline and*

Tribal Link Up programs in this State and shall ~~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.~~ *make and submit to the Commission, under penalty of perjury, the annual certifications required by 47 C.F.R. § 54.416.*

Sec. 27. NAC 704.680475 is hereby amended to read as follows:

704.680475 1. An eligible telecommunications carrier shall offer to subscribers within its service area the following services:

- (a) Lifeline; and
- (b) *Tribal* Link Up.

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. 28. NAC 704.680476 is hereby amended to read as follows:

704.680476 1. *If an eligible telecommunications carrier has a reasonable basis to believe that a subscriber of Lifeline service no longer meets the criteria to be considered a qualifying low-income subscriber, the carrier shall provide to the subscriber, and the eligibility responsibility party, if applicable, written notice of impending termination of the Lifeline service. The notice must be written in easily understood language and delivered to the subscriber separate from the subscriber's bill, if one is provided. The eligible*

telecommunications carrier shall terminate the Lifeline service provided to the subscriber if the subscriber does not provide proof of continued eligibility to receive Lifeline service in a manner consistent with the provisions of 47 C.F.R. § 54.405(e)(1).

2. If the Universal Service Administrative Company provides notice to an eligible telecommunications carrier that a subscriber is receiving Lifeline service from another eligible telecommunications carrier or that more than one member of the subscriber's household is receiving Lifeline service, the carrier must de-enroll the subscriber from participation in the carrier's Lifeline program within 5 business days after receiving such notice from the Universal Service Administrative Company. The eligible telecommunications carrier is not eligible for reimbursement for Lifeline service provided to a de-enrolled subscriber after the date on which the subscriber is de-enrolled.

3. If a subscriber of Lifeline service does not, during any period of 60 consecutive days, use a Lifeline service that does not require an eligible telecommunications carrier to assess or collect a monthly fee from its qualifying low-income subscribers, the carrier must provide to the subscriber written notice that the subscriber's failure to use the Lifeline service within 30 days after receipt of the notice will result in termination of the Lifeline service. The notice must be written in easily understood language and delivered to the subscriber separate from the subscriber's bill, if one is provided. A carrier shall not terminate Lifeline service if a subscriber to whom such notice is provided uses the Lifeline service within the 30-day period specified in the notice. As used in this subsection, "use" has the meaning ascribed to the term "usage" in 47 C.F.R. § 54.407(c)(2).

4. Any recertification request made by the eligibility responsibility party to a subscriber of Lifeline service must comply with the provisions of 47 C.F.R. §§ 54.405(e)(4) and 54.410(f).

5. Except as otherwise provided in subsection ~~3~~ 7, an eligible telecommunications carrier shall not disconnect service provided pursuant to a Lifeline program ~~if~~ *solely on the basis that* 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 ~~4~~ 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.

10. An eligible telecommunications carrier shall provide notice to the Eligibility Administrator within 5 business days after the date on which the eligible telecommunications

carrier terminates the Lifeline service of a customer or the date on which the eligible telecommunications carrier receives from the Universal Service Administrative Company or the National Lifeline Accountability Database an eligibility determination that is inconsistent with the eligibility determination made by the Eligibility Administrator. The eligible telecommunications carrier is not required to include in the notice the reason for the termination unless Lifeline service has been terminated as a result of information provided to the eligible telecommunications carrier by the Universal Service Administrative Company or the National Lifeline Accountability Database.

11. If there is an inconsistency between the eligibility determination made by the Eligibility Administrator and the eligibility determination made by the Universal Service Administrative Company or the National Lifeline Accountability Database, the eligibility determination made by the Universal Service Administrative Company or the National Lifeline Accountability Database controls.

Sec. 29. NAC 704.680477 is hereby amended to read as follows:

704.680477 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. 30. NAC 704.680422 is hereby repealed.

TEXT OF REPEALED SECTION

704.680422 “Toll control” defined. (NRS 703.025, 704.040, 704.210, 704.6873) “Toll control” has the meaning ascribed to it in 47 C.F.R. § 54.400(c).

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R143-13

1. A clear and concise explanation of the need for the adopted regulation.

The regulation revises existing regulations and promulgates new regulations as necessitated by the provisions of Senate Bill (“SB”) 41 of the 77th Session of the Nevada Legislature. Specifically, the regulation revises the Commission’s regulations regarding eligibility for and provision of Lifeline and Tribal Link Up telecommunication services.

2. 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.

(a) Copies of the proposed regulation, notice of intent to act upon the regulation and notice of workshop and hearing were sent by U.S. mail and email to persons who were known to have an interest in the subjects of noticing and interventions. These documents were also made available at the website of the Public Utilities Commission of Nevada (“PUCN”), <http://puc.nv.gov>, mailed to all county libraries in Nevada, published in the following newspapers:

Ely Times
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
9075 West Diablo Drive, Suite 250
Las Vegas, Nevada 89148

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

(b) Budget Prepay, Inc. d/b/a Budget Mobile; SPRINT COMMUNICATIONS COMPANY LP; SPRINT SPECTRUM LP d/b/a SPRINT; and VIRGIN MOBILE USA, LP; TW TELECOM OF NEVADA, LLC; the several Commission-certificated AT&T Companies, including Nevada Bell Telephone Company d/b/a AT&T Nevada and AT&T

Wholesale; SBC Long Distance, LLC d/b/a AT&T Long Distance; AT&T Corp.; Teleport Communications America, LLC; BellSouth Long Distance, Inc.; SNET America, Inc. d/b/a AT&T Long Distance East; and New Cingular Wireless PCS, LLC d/b/a Cingular Wireless; Central Telephone Company d/b/a CenturyLink and CenturyTel of the Gem State, Inc. d/b/a CenturyLink; the Regulatory Operations Staff of the Commission; Cox Nevada Telecom, LLC and the Nevada Telecommunications Association filed comments in the matter. The participants generally provided comment regarding conforming the Commission's regulations with the provisions of SB 41.

(c) Copies of the transcripts of the proceedings are available for review at the offices of the PUCN, 1150 East William Street, Carson City, Nevada 89701 and 9075 West Diablo Drive, Suite 250, Las Vegas, Nevada 89148.

3. **The number of persons who:**
 - (a) **Attended each hearing: 6**
 - (b) **Testified at each hearing: 1**
 - (c) **Submitted written comments: 3**

4. **For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**
 - (a) **Name;**
 - (b) **Telephone number;**
 - (c) **Business address;**
 - (d) **Business telephone number;**
 - (e) **Electronic mail address; and**
 - (f) **Name of entity or organization represented.**

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- 5. 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 in the same manner as they were solicited from the public.

The summary may be obtained as instructed in the response to question 2(c).

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

Revisions were made to the LCB-revised regulation in order to ensure compliance with federal telecommunications rules contained in the United States Code of Federal

Regulations and also to ensure that the regulation in this Docket does not conflict with the regulation in Docket No. 13-06021 (LCB File No. R021-14, Rulemaking regarding Senate Bill 498).

- 7. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include: both adverse and beneficial effects, and both immediate and long-term effects.**

(a) Estimated economic effect on the businesses which they are to regulate.

The regulation does not impose any economic effect on the businesses the regulation is to regulate.

(b) Estimated economic effect on the public which they are to regulate.

The regulation does not regulate the public.

- 8. The estimated cost to the agency for enforcement of the proposed regulation:**

Any costs associated with the regulation are considered incremental in nature.

- 9. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The regulation does incorporate provisions of federal rules, specifically federal telecommunications rules promulgated by the Federal Communications Commission contained in the United States Code of Federal Regulations.

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

N/A

- 11. 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

- 12. If the proposed regulation is likely to impose a direct and significant 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 Regulatory Operations Staff (“Staff”) of the Commission conducted a Delphi Method exercise to determine the impact of this proposed regulation on small businesses. The Delphi Method is a systematic, interactive, forecasting method based on independent inputs of selected experts. In this instance, the participants were members of Staff. Each participant in the exercise used his background and expertise to reflect upon and analyze

the impact of the proposed regulation on small businesses. Based upon Staff's analysis, Staff recommended to the Commission that the Commission find that the proposed regulation will not impose a direct and significant economic burden on small businesses or directly restrict the formation, operation or expansion of a small business. The Commission accepted Staff's recommendation and found that the proposed regulation does not impose a direct or significant economic burden upon small businesses, nor does it directly restrict the formation, operation, or expansion of a small business, and therefore a small business impact statement pursuant to NRS 233B.0608(2) is not required. This finding was memorialized in an Order issued in Docket No. 13-06019 on February 27, 2014.