

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

LCB File No. R021-14

Effective October 24, 2014

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

AUTHORITY: §§1-25, NRS 703.025, 704.040, 704.210 and 704.6873.

A REGULATION relating to telecommunications; revising provisions governing eligibility for and provision of Lifeline and Tribal Link Up telecommunication services; providing that the Public Utilities Commission of Nevada will select and contract with a Fund Administrator and an Eligibility Administrator; establishing the powers and duties of the Eligibility Administrator, including, without limitation, the duty to certify and recertify the eligibility of customers for Lifeline service; revising provisions governing eligibility for Lifeline service; 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 6, 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 5 of this regulation, each eligible telecommunications carrier; and

2. On and after the date established by the Commission pursuant to section 5 of this regulation, the Eligibility Administrator.

Sec. 4. *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. 5. *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 6, 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. 6. *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. 7. 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 6, 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 and 3 of this regulation* have the meanings ascribed to them in those sections.

Sec. 8. 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. 9. NAC 704.680411 is hereby amended to read as follows:

704.680411 “Eligible library” means a library that is eligible to receive telecommunication services at a discounted rate pursuant to 47 C.F.R. § 54.501. The term includes a consortium of libraries eligible to receive telecommunication services at a discounted rate pursuant to 47 C.F.R. § ~~54.501(d)~~ *54.501(c)*.

Sec. 10. NAC 704.680412 is hereby amended to read as follows:

704.680412 “Eligible school” means a school that is eligible to receive telecommunication services at a discounted rate pursuant to 47 C.F.R. § 54.501. The term includes a consortium of schools eligible to receive telecommunication services at a discounted rate pursuant to 47 C.F.R. § ~~54.501(d)~~ *54.501(c)*.

Sec. 11. NAC 704.680414 is hereby amended to read as follows:

704.680414 “Eligible telecommunications service” means a telecommunications service that may be provided to a provider of health care at a discounted rate pursuant to 47 C.F.R. § ~~54.601(e)~~ *54.604(b)*.

Sec. 12. 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. 13. NAC 704.680417 is hereby amended to read as follows:

704.680417 “Provider of health care” ~~has the meaning ascribed to it~~ *means “health care provider” as that term is defined* in 47 C.F.R. § ~~54.601(a)~~ *54.600(a)*.

Sec. 14. NAC 704.68044 is hereby amended to read as follows:

704.68044 The *Fund* Administrator shall:

1. Conduct periodic audits of contributors to the fund to maintain the availability of telephone service to ensure that the correct payments are being remitted by persons providing intrastate telecommunication service or the functional equivalent of such service through any form of telephony technology, unless the levy and collection of an assessment with regard to a particular form of technology is prohibited by federal law.
2. Verify the qualifications of an applicant who requests support from the fund to maintain the availability of telephone service.
3. Collect assessments from all persons providing intrastate telecommunication service or the functional equivalent of such service through any form of telephony technology, unless the levy and collection of an assessment with regard to a particular form of technology is prohibited by federal law and deposit that money into the fund to maintain the availability of telephone service.
4. Disburse money from the fund to maintain the availability of telephone service to eligible telecommunications carriers who qualify for funding in accordance with NAC 704.6804 to 704.68056, inclusive, *and sections 2 to 6, inclusive, of this regulation* and with applicable orders of the Commission.
5. Prepare a quarterly report of all activities of the fund to maintain the availability of telephone service, including:

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

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

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

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

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

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

Sec. 15. 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. 16. 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;

~~{(e) 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. 17. 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 any annual filings required by federal law, including the filing of FCC Form 555.*~~

Sec. 18. 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. 19. 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. 20. 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 ~~13.1~~ 7, an eligible telecommunications carrier shall not disconnect service provided pursuant to a Lifeline program ~~11.1~~ solely on the basis that the subscriber fails to pay charges for toll calls.

~~12.1~~ *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.

~~13.1~~ 7. An eligible telecommunications carrier may file with the Commission an application for a waiver from the requirements of subsections ~~11~~ 5 and ~~12.1~~ 6.

~~14.1~~ 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 ~~11~~ 5 and ~~12.1~~ 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.

~~15.1~~ 9. The Commission will approve or deny an application that is filed pursuant to subsection ~~13.1~~ 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. 21. NAC 704.680478 is hereby amended to read as follows:

704.680478 1. A provider of telecommunication service who is designated as an eligible telecommunications carrier may file directly with the *Fund* Administrator a request for a disbursement of money from the fund to maintain the availability of telephone service for reimbursement of the costs of providing a discount in the rate for Lifeline service pursuant to NAC 704.680475. The amount of reimbursement requested per line per month must not exceed \$3.50 or the difference between the amount of the Lifeline discount offered by the provider pursuant to NAC 704.680475 and the amount of federal universal service support available for the discount pursuant to 47 C.F.R. § 54.403(a), whichever is less.

2. An eligible telecommunications carrier may seek reimbursement from the fund to maintain the availability of telephone service for only \$3.50 per line per month or the portion of the discount in the rate for Lifeline service for which federal universal service support is not available, whichever is less.

3. Not later than 180 days before the beginning of the first period for which the eligible telecommunications carrier may seek reimbursement pursuant to this section, an eligible

telecommunications carrier shall submit directly to the *Fund* Administrator a report which provides:

(a) An estimate of the amount of the reimbursement the eligible telecommunications carrier expects to request for the forecasted calendar year;

(b) The expected number of subscribers to the Lifeline service of the eligible telecommunications carrier for each month of the forecasted calendar year; and

(c) The amount of the Lifeline discount per line per month.

4. An eligible telecommunications carrier must file directly with the *Fund* Administrator, not later than 30 days after the close of each calendar quarter, a request for a disbursement from the fund to maintain the availability of telephone service in the amount of \$3.50 per line per month or the difference between the total amount of the Lifeline discount provided by the eligible telecommunications carrier and the total amount of federal universal service support available to the eligible telecommunications carrier pursuant to 47 C.F.R. § 54.403(a), whichever is less. The request must include a statement of:

(a) The average number of subscribers to the Lifeline service provided by the eligible telecommunications carrier in each full month of the quarter;

(b) The amount of the Lifeline discount per line per month; and

(c) The amount of the reimbursement per line per month that the eligible telecommunications carrier will seek beginning with the quarter following the quarter for which the request was filed.

5. An eligible telecommunications carrier may not seek reimbursement from the fund to maintain the availability of telephone service for a Lifeline discount if the customer who subscribes to Lifeline service and who is not an eligible resident of tribal lands is charged a rate

of less than \$3.50 per line per month for basic network service or basic network service provided by an alternative ~~technology~~ *voice service* pursuant to NRS 704.68881.

6. The *Fund* Administrator shall disburse quarterly to eligible telecommunications carriers that satisfy the requirements of this section the reimbursement from the fund to maintain the availability of telephone service for the cost of providing a Lifeline discount. The reimbursement to each eligible telecommunications carrier must not exceed \$3.50 per line per month.

7. This section applies only to the request of an eligible telecommunications carrier for a disbursement of money from the fund to maintain the availability of telephone service to reimburse the eligible telecommunications carrier for the cost of providing a Lifeline discount.

8. As used in this section, “eligible resident of tribal lands” has the meaning ascribed to it in 47 C.F.R. § 54.400.

Sec. 22. NAC 704.68048 is hereby amended to read as follows:

704.68048 1. To qualify for money from the fund to maintain the availability of telephone service to keep basic service rates at an affordable level pursuant to subsections 1 and 2 of NAC 704.68043, a small-scale provider of last resort must meet the following requirements:

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

(b) Its monthly basic recurring flat rates for basic service must be reasonably comparable to rates charged for similar services in urban areas, or the small-scale provider of last resort must agree to carry out a plan approved by the Commission designed to set those rates at levels reasonably comparable to rates charged for similar services in urban areas within the time specified by the Commission.

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

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

4. A small-scale provider of last resort who is qualified pursuant to this section to receive money from the fund to maintain the availability of telephone service shall calculate its overall rate of return by using the common return on equity as determined in NAC 703.27138 and the information relating to the overall rate of return which must be included in an application for a rate change filed pursuant to NAC 703.27132. To be eligible to receive money from the fund pursuant to this section, the level of earnings of the small-scale provider of last resort, as calculated pursuant to subsection 1 of NAC 704.68056, must be below the rate of return authorized for the small-scale provider by the Commission. A request for money from the fund to maintain the availability of telephone service is subject to audit by the *Fund* Administrator or the Commission and its staff.

Sec. 23. NAC 704.6805 is hereby amended to read as follows:

704.6805 1. After the Commission has conducted proceedings pursuant to NAC 704.68051, a competitive supplier that is a provider of last resort may file a petition with the Commission to receive money from the fund to maintain the availability of telephone service to keep its rates for basic services at an affordable level. The competitive supplier has the burden of

demonstrating that circumstances exist which justify its eligibility to receive money from the fund to maintain the availability of telephone service.

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

3. A competitive supplier that is a provider of last resort that receives money from the *Fund* Administrator for the purposes set forth in subsection 1 or 2 of NAC 704.68043 shall certify to the Commission annually that the competitive supplier has used the money from the fund to maintain availability of telephone services for the purposes set forth in NAC 704.68043 and 47 U.S.C. § 254. In the case of a monthly per-line reimbursement to recover the cost of providing service determined pursuant to subsection 2 of NAC 704.68051, the competitive supplier shall also provide to the Commission, on a form prescribed by and posted on the website of the Commission, a certification of the number of customers in high-cost areas that the competitive supplier served during each month of the reporting period established by the Commission. A corporate officer of the competitive supplier must affirm that the information submitted pursuant to this subsection is true and accurate by making a notarized attestation.

Sec. 24. NAC 704.68054 is hereby amended to read as follows:

704.68054 1. The Commission will make an annual determination of the total amount of money required to support the fund to maintain the availability of telephone service for the next calendar year based on the recommendation of the *Fund* Administrator and any person given permission to intervene by the Commission. The Commission will then set the assessment based on a percentage rate on anticipated revenues from retail intrastate telecommunication service of all providers of telecommunication service required to recover this amount.

2. The assessment must be remitted to the *Fund* Administrator by a provider of telecommunication service on a quarterly basis.

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

Sec. 25. NAC 704.68056 is hereby amended to read as follows:

704.68056 1. Upon its initial request for money from the fund to maintain the availability of telephone service, and once every 4 years thereafter, a small-scale provider of last resort shall submit sufficient information to demonstrate its level of earnings pursuant to NAC 703.27116 to 703.27146, inclusive, as appropriate.

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

(a) The provider is a competitive supplier;

(b) The provider is requesting a one-time disbursement of money from the fund to maintain the availability of telephone service to extend or improve basic service; or

(c) The provider is requesting a disbursement of money from the fund to maintain the availability of telephone service pursuant to NAC 704.68047 or 704.680473.

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

4. An application to the *Fund* Administrator must be submitted not later than 180 days before the beginning of the calendar year for which the money is being requested. An application

to the Commission must be submitted by a competitive supplier not later than 270 days before the beginning of the calendar year for which the money is being requested.

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

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

7. The Commission may grant a deviation or waiver from the deadlines for the filings pursuant to NAC 704.6804 to 704.68056, inclusive, *and sections 2 to 6, inclusive, of this regulation* to the extent it determines that the deviation or waiver is in the public interest.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R021-14

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

The regulation is needed to establish the selection process and duties of an independent administrator who will certify or recertify lifeline service eligibility in accordance with Senate Bill 498 of the 77th Session of the Nevada Legislature (“SB 498”). Accordingly, the regulation revises Chapter 704 of the Nevada Administrative Code (“NAC”) in a manner consistent with SB 498.

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” or “Commission”), <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) Cox Nevada Telcom, LLC (“Cox”); 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., and SNET America, Inc. d/b/a AT&T Long Distance East, and New Cingular Wireless PCS, LLC d/b/a Cingular Wireless (collectively, “AT&T Companies”); Nevada

Telecommunications Association (“NTA”); Central Telephone Company d/b/a CenturyLink and CenturyTel of the Gem State, Inc. d/b/a CenturyLink (“CenturyLink”); and Sprint Communications Company LP, Sprint Spectrum LP dba Sprint and Virgin Mobile USA, LP (collectively, “Sprint-Virgin Mobile”), and Budget Prepay, Inc. dba Budget Mobile (“Budget Mobile”), and the Regulatory Operations Staff of the Commission (“Staff”) filed comments in the matter. The foregoing participants generally provided comments in response to the Commission’s questions, requests for analyses, and requests for additional information related to establishing a selection process and duties of an independent administrator who will certify or recertify lifeline service eligibility in accordance with SB 498, and revising NAC 704 in a manner consistent with SB 498, accordingly.

(c) Copies of the transcripts of the proceedings are available for review at the offices of the PUCN at 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:** 7
 - (b) **Testified at each hearing:** 7
 - (c) **Submitted written statements:** 7

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.**

Samuel Crano
Regulatory Operations Staff of the PUCN
1150 East William Street
Carson City, Nevada 89701
(775) 684-6151
scrano@puc.nv.gov

Roger Moffitt
AT&T Companies
645 East Plumb Lane, Room B132
Reno, Nevada 89520
(775) 333-3114
roger.moffitt@att.com

Mark DiNunzio
Cox Communications
1515 West Deer Valley Road
Phoenix, Arizona 85027
(623) 328-7757
mark.dinunzio@cox.com

Mark Eifert
NTA
P.O. Box 34449
Reno, Nevada 89533
(775) 827-0191
eifert.nta@att.net

Torry R. Somers
CenturyLink
6700 Via Austi Parkway
Las Vegas, Nevada 89119
(702) 244-8100
torry.r.somers@centurylink.com

Steven E. Tackes
Sprint-Virgin Mobile and Budget Mobile
510 W. Fourth Street
Carson City, Nevada 89703
(775) 884-8306
stackes@kcnvlaw.com

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. 13-06019 (LCB File No. R143-13, Rulemaking regarding Senate Bill 41).

7. The estimated economic effect of the regulation on the business which it is to regulate and on the public.

(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. The proposed regulation implementing an independent administrator will increase the assessment percentage needed to fund the Nevada Universal Service Fund (“NUSF”). The NUSF will need to increase drastically during the first year to cover initial implementation costs and should then decrease, but to a level above the current assessment percentage needed to fund the NUSF. The assessment percentage is applied to the revenue of all billed intrastate retail services, and then charged as a pass through cost to telecommunications customers. However, SB 498 is the direct cause of implementing an independent administrator and, therefore, the regulation is not specifically responsible for the burdens and benefits of an independent administrator.

(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. The Commission currently evaluates the NUSF on an annual basis and that the proposed regulation will maintain that responsibility. The Commission and/or Staff will spend some time reviewing the initial request for proposal responses and meeting with the independent administrator to get the process started, but the incremental workload will be absorbed by existing Commission resources.

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. 13-06021 on May 6, 2014.