

Chapter 704 of NAC

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

LCB File No. T002-16

Docket No. 16-07010

September 15, 2016

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

Section 1. NAC 704.68044 is hereby amended to read as follows:

NAC 704.68044 Duties of Fund Administrator.

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 ~~H~~; *Sections 2 to 3 and 5, of this Regulation, inclusive*; 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).

Section 2. NAC 704.680465 is hereby amended to read as follows:

NAC 704.680465 Designation as eligible telecommunications carrier: Information to be filed with annual report.

A provider of telecommunication service who is designated as an eligible telecommunications carrier shall submit with the annual report required pursuant to NAC 704.7483, ~~information which demonstrates~~ *an affirmation* that the provider has met the requirements set forth in NAC 704.680461 during the year for which the report is submitted.

Section 3. NAC 704.68048 is hereby amended to read as follows:

NAC 704.68048 Qualification of small-scale provider of last resort for disbursement from fund; disputes regarding qualification; required return on common equity; audit.

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 *residential and business* basic service must be, *at a minimum, 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.* ~~the affordable rate established by the Commission at the small-scale provider of last resort's last general rate case, or the rate established by the Federal Communications Commission for such services, whichever is higher.~~

(1) Rates set by the Commission must be reasonably comparable to rates charged for similar services in urban areas.

(2) Small-scale providers of last resort must file to change their rates in accordance with NRS 704.100(1)(g) with the Commission by July 1 of the same year.

□□ If a small-scale provider of last resort's rates do not meet the minimum threshold set forth in paragraph (b), the Commission may consider a pro-rata reduction in the annual amount of money its determines appropriate to disburse to that small-scale provider of last resort from the fund to maintain the availability of telephone service.

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

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.~~ *Upon its initial request for money from the fund to maintain the availability of telephone service, and every 5 years thereafter, a small-scale provider of last resort shall file an application for a rate increase with the Commission pursuant to NAC 703.27116 to 703.27146. The Commission will determine the annual amount a small scale provider will receive from the fund to maintain the availability of telephone service until the small scale provider of last resort is required to file its next application for a rate increase. The annual amount a small scale provider receives from the fund to maintain the availability of telephone service shall not exceed its authorized overall rate of return and is subject to any limitation imposed by the Commission.*

5. 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.

Section 4. NAC 704.68054 is hereby amended to read as follows:

NAC 704.68054 Assessment for support of fund.

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 *not later than 30 days after the last day of the month in the calendar quarter.*

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.

Section 5. NAC 704.68056 is hereby amended to read as follows:

NAC 704.68056 Procedure for disbursement from fund; report of Fund Administrator regarding assessment for fund; deviation from or waiver of deadlines for filings.

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.~~ *A small-scale provider of last resort for*

which the Commission has determined an annual amount the small-scale provider will receive from the fund to maintain the availability of telephone service, must make a filing with the Commission not later than 180 days before the beginning of the calendar year for which money will be disbursed demonstrating that receipt of the disbursement will not result in the small-scale provider of last resort exceeding its authorized overall rate of return for that year. The small-scale provider of last resort shall provide all calculations used to make the demonstration. The calculations used in the filing must include and describe all general rate case adjustments ordered by the Commission in the small-scale provider of last resort's last general rate case. The small-scale provider of last resort must also send the filing to the Fund Administrator at the same time it makes the filing with the Commission.

2. Should the staff of the Commission determine receipt of the Commission-determined annual disbursement from the fund to maintain the availability of telephone service will result in a small-scale provider of last resort exceeding its authorized overall rate of return, it may request that the Commission hold a hearing to determine an appropriate disbursement amount that will not result in the small-scale provider exceeding its authorized overall rate of return for that year.

~~12~~3. 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~~ *or 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.

~~13. 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. ~~14. 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~~90 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~~60 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, to the extent it determines that the deviation or waiver is in the public interest.