

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

LCB FILE NO. R059-17I

(This regulation was previously adopted as LCB File NO. T005-16)

**The following document is the initial draft regulation proposed
by the agency submitted on 08/09/2017**

Chapter 704 of NAC

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

LCB File No. T005-16

(Filed with the Secretary of State on December 1, 2016)

Docket No. 16-07010
LCB File No. T005-16
October 25, 2016

This regulation is effective on the date the federal rules amending eligibility for the Federal Lifeline Program become effective pursuant to the Federal Communications Commission's Third Report and Order, Further Report and Order, and Order on Reconsideration in Wireline Competition Docket Nos. 11-42, 09-197, and 10-90.

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

Section 1. NAC 704.680474 is hereby amended to read as follows:

NAC 704.680474 Criteria for eligibility as qualifying low-income subscriber; documentation of qualification; duties of eligibility responsibility party.

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 ~~175~~*135* percent of the federally established poverty levels set forth for the number of persons in the household of that prospective subscriber; or

(b) 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) The Supplemental Nutrition Assistance program;
- (3) The Supplemental Security Income Program;
- (4) Federal public housing assistance;
- (5) ~~The Low Income Home Energy Assistance Program;~~
- ~~(6) The Temporary Assistance for Needy Families program;~~
- ~~(7) The National School Lunch Program;~~ *Veterans and Survivors Pension Benefit Program;*
- ~~(8) Bureau of Indian Affairs general assistance;~~
- ~~(9) Tribally administered Temporary Assistance for Needy Families;~~
- ~~(10) Head Start; or~~

(~~1119~~) 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 income-eligibility requirements set forth in paragraph (a) of subsection 1, the prospective subscriber must submit to the eligibility responsibility party, and the eligibility responsibility party must review, documentation which demonstrates that the 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 requirements set forth in paragraph (b) of subsection 1, the prospective subscriber must submit to the eligibility responsibility party, and the eligibility responsibility party must review, documentation which proves that the prospective subscriber 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.

Section 2. NAC 704.680472 is hereby amended to read as follows:

NAC 704.680472 Maintenance and provision of lists of certain persons by Department of Health and Human Services; exception.

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]~~*The Veterans and Survivors Pension Benefit 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.

Section 3. NAC 704.680476 is hereby amended to read as follows:

NAC 704.680476 Termination of Lifeline service; enrollment of subscriber with unpaid toll charges into Lifeline or Tribal Link Up program; waiver of requirements; notice to Eligibility Administrator; inconsistency of eligibility determinations.

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 ~~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~~ *for the period specified by 47 C.F.R. § 54.405(e)(3)*, the carrier must provide to the subscriber written notice *regarding potential termination pursuant to 47 C.F.R. 54.405(e)(3)*. ~~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 *for non-usage unless the requirements specified in 47 C.F.R. 54.405(e)(3) are met* ~~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. *If an eligible telecommunications carrier receives a request from a subscriber to de-enroll, it must de-enroll the subscriber as specified in 47 C.F.R. §54.405(e)(5).*

~~4~~5. 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~~6. Except as otherwise provided in subsection ~~7~~8, an eligible telecommunications carrier shall not disconnect service provided pursuant to a Lifeline program solely on the basis that the subscriber fails to pay charges for toll calls.

~~6~~7. 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.

~~7~~8. An eligible telecommunications carrier may file with the Commission an application for a waiver from the requirements of subsections ~~5~~6 and ~~6~~7.

~~8~~9. 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 ~~5~~6 and ~~6~~7;
- (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.

~~¶9~~10. The Commission will approve or deny an application that is filed pursuant to subsection ~~¶7~~8 within 30 days after receipt of the application.

~~¶10~~11. 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~~12. 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.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. T005-16

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

The regulation conforms Nevada's regulations to federal code as adopted by the Federal Communications Commission regarding the Lifeline Program.

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 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

(b) The Attorney General's Bureau of Consumer Protection ("BCP"); Central Telephone Company d/b/a CenturyLink and CenturyTel of the Gem State, Inc. d/d/a CenturyLink ("CenturyLink"); Cox Nevada Telecom, LLC ("Cox"); the Nevada Telecommunications Association ("NTA"); Nevada Bell Telephone Company d/b/a AT&T Nevada and AT&T Wholesale ("AT&T Nevada"); and the Regulatory Operations Staff ("Staff") of the Commission filed comments in the matter. The commenters generally supported the proposed regulation with minor suggested edits, which were subsequently incorporated.

(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: 6**
- (c) Submitted written comments: 6**

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.**

Proposed revisions to the regulation proposed by the participants were incorporated in the regulation.

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 implements federal regulations promulgated by the Federal Communications Commission.

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 Policy Analysis Division (“Policy Analysis”) 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 Policy Analysis. 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 Policy Analysis’ analysis, Policy Analysis 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 Policy Analysis’ 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. 16-07010 on October 31, 2016.