

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

LCB FILE NO. R147-17I

**The following document is the initial draft regulation proposed
by the agency submitted on 12/12/2017**

PROPOSED REGULATION OF
THE PUBLIC UTILITIES COMMISSION OF NEVADA

Docket No. 17-07012

Explanation – Matter in ***bold italic*** is new; matter in brackets [~~omitted material~~] is material to be omitted. Matter in *regular italics* and ~~non-bracketed strikethrough~~ is matter changed in Docket No. 16-07010 (LCB File No. R059-17).

AUTHORITY: NRS 703.025, 704.210, 704.7821, SB 412 (2017)

A REGULATION to implement Senate Bill 412 (2017)

Section 1. NAC 704.6804109 is hereby amended to read as follows:

704.6804109 “Eligibility responsibility party” defined. (NRS 703.025, 704.040, 704.210, 704.6873) “Eligibility responsibility party” means:

1. ~~Before the date established by the Commission pursuant to NAC 704.68045 each eligible telecommunications carrier; and~~
2. ~~On or after the date established by the Commission pursuant to NAC 704.68045,]~~ the Eligibility Administrator ***or the National Lifeline Eligibility Verifier as applicable.***

Sec. 2. Chapter 704 of NAC is hereby amended by adding thereto a new section 704.6804165 to read as follows:

NAC 704.6804165 “National Lifeline Eligibility Verifier” defined. “National Lifeline Eligibility Verifier” has the meaning ascribed to it in 47 C.F.R. §54.400.

Sec. 3. NAC 704.680435 is hereby amended to read as follows:

704.680435 Selection of and contract with Eligibility Administrator and Fund Administrator. (NRS 703.025, 704.040, 704.210, 704.6873)

1. The Commission ~~[will]~~ ***may*** 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 ***or may, in accordance with the terms of a contract entered into with an independent administrator pursuant to NRS 704.040 subsection 6, terminate the Eligibility Administrator, if the National Lifeline Eligibility Verifier is able to certify and recertify the eligibility of customers in this State for lifeline service.***
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. 4. NAC 704.680439 is hereby amended to read as follows:

704.680439 Duties of Eligibility Administrator. (NRS 703.025, 704.040, 704.210, 704.6873) ***Until the state of Nevada transitions to the use of the National Lifeline Eligibility Verifier as the eligibility responsibility party, the following provisions will apply.*** 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. 5. NAC 704.68045 is hereby repealed.

~~[NAC 704.68045—Commission to determine date on which responsibilities transfer to Eligibility Administrator. (NRS 703.025, 704.040, 704.210, 704.6873)]~~

~~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, 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. NAC 704.680474 is hereby amended to read as follows:

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

1. To be eligible as a qualifying low-income subscriber for the purposes of NAC 704.680475 and 704.680477, 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;~~

(8) Bureau of Indian Affairs general assistance;

(97) Tribally administered Temporary Assistance for Needy Families;

(108) Head Start; or

(119) 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. ***Unless the Eligibility Administrator has been terminated pursuant to NAC 704.680435(1), b***efore an eligible telecommunications carrier may enroll the prospective subscriber in Lifeline service, the eligibility responsibility party shall:

- (a) Collect from the prospective subscriber ~~for 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.

8. Once the state of Nevada transitions to the use of the National Lifeline Eligibility Verifier, the National Lifeline Eligibility Verifier will determine eligibility in accordance with 47 C.F.R. § 54.409.

9. If the Eligibility Administrator has been terminated pursuant to NAC 704.680435(1) the carrier may only enroll a subscriber who is identified as eligible in the National Lifeline Eligibility Verifier Database.

Sec. 7. NAC 704.6804742 is hereby amended to read as follows:

704.6804742 Maintenance and provision of lists of certain persons by Department of Health and Human Services; exception. (NRS 703.025, 704.040, 704.210, 704.6873)

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; Veterans and Survivors Pension Benefit;~~
- ~~(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 **or National Lifeline Eligibility Verifier** 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. 8. NAC 704.6804743 is hereby amended to read as follows:

704.6804743 Recertification of continued eligibility as qualifying low-income subscriber. (NRS 703.025, 704.040, 704.210, 704.6873) ***Unless terminated pursuant to NAC 704.680435(1),*** ~~the~~ 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 service remains eligible to receive that service. ~~the~~ **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.