

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

LCB File No. R147-17

January 16, 2018

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

AUTHORITY: §§1-8, NRS 703.025, 704.040, as amended by section 1 of Senate Bill No. 412, chapter 117, Statutes of Nevada 2017, at page 512, NRS 704.210 and 704.6873.

A REGULATION relating to telecommunications; revising provisions governing the administration of Lifeline service in this State; 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) Existing law also requires the Commission to adopt regulations relating to the provision of Lifeline service, a federal program that provides discounts on monthly telephone service for eligible low-income customers. (NRS 704.6873)

Under existing law and regulations, the Commission has selected an independent administrator to determine the eligibility of prospective subscribers for Lifeline service. (NRS 704.040; NAC 704.680435) Existing law authorizes the Commission to terminate the independent administrator in accordance with the terms of the Commission’s contract with the independent administrator if the National Lifeline Eligibility Administrator, which is an electronic federal system to facilitate the determination of consumer eligibility for Lifeline service, is able to certify and recertify the eligibility of prospective subscribers for Lifeline service. (NRS 704.040, as amended by section 1 of Senate Bill No. 412, chapter 117, Statutes of Nevada 2017, at page 512)

This regulation revises the administration of the Lifeline service in this State to provide for the termination of the independent administrator under certain circumstances and the use of the National Lifeline Eligibility Verifier to determine the eligibility of a prospective subscriber for Lifeline service when the National Verifier is implemented in this State.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto a new section to read as follows:

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

Sec. 2. NAC 704.6804 is hereby amended to read as follows:

704.6804 As used in NAC 704.6804 to 704.68056, inclusive, *and section 1 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 704.6804105 to 704.680424, inclusive, *and section 1 of this regulation* have the meanings ascribed to them in those sections.

Sec. 3. NAC 704.6804109 is hereby amended to read as follows:

704.6804109 “Eligibility responsibility party” means:

1. ~~{Before the date established by the Commission pursuant to NAC 704.68045, each eligible telecommunications carrier; and~~
- ~~—2.— On and after the date established by the Commission pursuant to NAC 704.68045, the~~
The Eligibility Administrator {+}; or
2. *If the Eligibility Administrator is terminated pursuant to paragraph (b) of subsection 1 of NAC 704.680435, the National Lifeline Eligibility Verifier.*

Sec. 4. NAC 704.680435 is hereby amended to read as follows:

704.680435 1. The Commission ~~{will select}~~ *may:*

(a) 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

(b) In accordance with the terms of a contract entered into with an independent administrator pursuant to subsection 6 of NRS 704.040, as amended by section 1 of Senate Bill No. 412, chapter 117, Statutes of Nevada 2017, at page 512, terminate the Eligibility

Administrator if the National Lifeline Eligibility Verifier is able to certify and recertify the eligibility of customers for Lifeline service in this State.

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. NAC 704.680439 is hereby amended to read as follows:

704.680439 ~~The~~ *Unless the Eligibility Administrator is terminated pursuant to paragraph (b) of subsection 1 of NRS 704.680435, 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. 6. 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 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) Veterans and Survivors Pension benefit;
- (6) Bureau of Indian Affairs general assistance;

- (7) Tribally administered Temporary Assistance for Needy Families;
- (8) Head Start; or
- (9) 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~~ *Unless the National Lifeline Eligibility Verifier has been implemented in this State, before* 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~~ **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. On and after the date that the National Lifeline Eligibility Verifier is implemented in this State, eligibility must be determined by the National Lifeline Eligibility Verifier in accordance with 47 C.F.R. §§ 54.409 and 54.410.

9. If the National Lifeline Eligibility Verifier is implemented in this State, an eligible telecommunications carrier may only enroll a subscriber who is identified as eligible in the Lifeline Eligibility Database and the National Lifeline Accountability Database.

Sec. 7. NAC 704.6804743 is hereby amended to read as follows:

704.6804743 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. ~~If the eligibility responsibility party is the Eligibility Administrator, the~~ **The** eligibility responsibility party shall,

for each subscriber for whom an eligible telecommunications carrier is the current carrier of record, provide to the eligible telecommunications carrier copies of the recertifications and any other information necessary for the eligible telecommunications carrier to comply with 47 C.F.R. § 54.416. The eligibility responsibility party shall provide such information to the eligible telecommunications carrier at least 30 days before the date of the annual filings required by federal law, including the filing of FCC Form 555.

Sec. 8. NAC 704.68045 is hereby repealed.

TEXT OF REPEALED SECTION

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.

