

**PROPOSED REGULATION OF THE  
PUBLIC UTILITIES COMMISSION**

**LCB File No. R150-97**

November 3, 1997

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

AUTHORITY: §§ 1-23, section 54 of chapter 482, Statutes of Nevada 1997, at page 1902 and NRS 704.210.

**Section 1.** Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 34, inclusive, of this regulation.

**Sec. 2.** *“Administrator” means the independent administrator selected by the commission to administer the fund for universal service.*

**Sec. 3.** *“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).*

**Sec. 4.** *“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).*

**Sec. 5.** *“Eligible telecommunications carrier” means a provider of telecommunication service whose application for designation has been approved by the commission pursuant to section 16 of this regulation.*

**Sec. 6.** *“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(c).*

**Sec. 7.** *“Fund for universal service” means the fund established by the commission pursuant to NRS 704.040, which is intended to promote universal telephone service.*

**Sec. 8.** *“Lifeline” has the meaning ascribed to it in 47 C.F.R. § 54.401(a).*

**Sec. 9.** *“Provider of health care” has the meaning ascribed to it in 47 C.F.R. § 54.601(a).*

**Sec. 10.** *“Qualifying low-income subscriber” means a subscriber of telecommunication service who meets the criteria set forth in section 29 of this regulation.*

**Sec. 11.** *“Rural area” has the meaning ascribed to it in 47 C.F.R. § 54.5.*

**Sec. 12.** *“Service area” means a geographic area established by the commission pursuant to section 22 of this regulation to determine obligations to provide universal service obligations and eligibility for federal universal service support.*

**Sec. 13.** *“Toll control” has the meaning ascribed to it in 47 C.F.R. § 54.400(c).*

**Sec. 14.** *“Toll limitation” has the meaning ascribed to it in 47 C.F.R. § 54.400(d).*

**Sec. 15.** *“Universal service” means the availability of affordable and reliable basic service to as many customers in this state as economically and operationally practicable.*

**Sec. 16.** *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) Holds a certificate of public convenience and necessity issued by the commission that authorizes the provider of telecommunication service to provide basic service.*

*(b) Unless otherwise specifically authorized by the commission pursuant to section 17 of this regulation, offers the 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 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, advertise throughout the service area for which the provider of telecommunication service seeks designation as an eligible telecommunications carrier the availability of the 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. The commission will issue an order approving or denying an application filed pursuant to subsection 1 within 90 days after receipt of the application.*

**Sec. 17.** *1. Notwithstanding the provisions of section 16 of this regulation, a provider of telecommunication service who seeks designation as an eligible telecommunications carrier may file with the commission an application for a temporary waiver from the requirement to offer:*

*(a) Single-party service;*

*(b) Access to enhanced 911 service; or*

*(c) Toll limitation,*

*if the provider requires additional time to complete upgrades to its network that are necessary to provide any or all of those services.*

*2. The commission will approve an application for a temporary waiver that is filed pursuant to subsection 1 only upon a finding that:*

*(a) Exceptional circumstances prevent the provider of telecommunication service from providing any or all of the services set forth in subsection 1; and*

*(b) The provider of telecommunication service otherwise meets the requirements set forth in section 16 of this regulation.*

*3. If the commission approves an application for a temporary waiver pursuant to subsection 2, the commission will specify the period for which the waiver is valid. Such a period must not be longer than the period that the commission determines is necessary for the provider of telecommunication service to complete the necessary upgrades to its network.*

*4. The commission will issue an order granting, denying or modifying an application for a temporary waiver that is filed pursuant to subsection 1 within 90 days after receipt of the application.*

**Sec. 18.** *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 that the provider has met the requirements set forth in section 16 of this regulation during the year for which the report is submitted.*

**Sec. 19.** *1. A provider of telecommunication service who is designated as an eligible telecommunications carrier may file with the commission an application to relinquish that designation in any service area that is served by more than one eligible telecommunications carrier.*

*2. The commission will approve an application filed pursuant to subsection 1 only if it determines that other eligible telecommunications carriers serving that service area are capable of and will provide continuous service to customers served by the applicant.*

*3. The commission will issue an order approving or denying an application filed pursuant to subsection 1 within 90 days after receipt of the application.*

**Sec. 20.** *The commission may, upon its own motion or upon receipt of a complaint filed by any person, revoke the designation of a provider of telecommunication service as an eligible telecommunications carrier if the commission determines, after investigation and a hearing, that the provider of telecommunication service has failed to meet the requirements set forth in section 16 of this regulation.*

**Sec. 21.** *A provider of telecommunication service who is designated as an eligible telecommunications carrier is eligible to receive:*

- 1. Federal universal service support pursuant to 47 C.F.R. § 54.201(a); and*
- 2. Money from the fund for universal service for the purposes set forth in NAC 704.68042.*

**Sec. 22.** *1. The commission will establish service areas to determine the area for which a provider of telecommunication service that seeks designation as an eligible telecommunications carrier:*

- (a) Must provide telecommunication service; and*

*(b) Is eligible to receive federal universal service support.*

*2. Except as otherwise provided in subsection 3, the service area of a provider of last resort of basic service must be identical to the study area of that company.*

*3. Any person may petition the commission for the establishment of a service area for a rural telephone company that differs from the service area established pursuant to subsection 3 for that rural telephone company. In determining whether to establish an alternative service area, the commission will consider:*

*(a) Whether the establishment of an alternative service area will promote competition;*

*(b) Whether the establishment of an alternative service area will promote universal service;*

*(c) The potential effect that establishment of an alternative service area may have on the fund for universal service; and*

*(d) Any other factor that the commission determines to be relevant.*

*4. As used in this section:*

*(a) "Rural telephone company" has the meaning ascribed to it in 47 C.F.R. § 51.5.*

*(b) "Study area" means a geographic area defined by the Federal Communications Commission for each provider of last resort of basic service.*

**Sec. 23.** *1. An eligible school or library that wishes to receive discounts in the rates for intrastate telecommunication service must, in accordance with the procedures and requirements set forth in 47 C.F.R. § 54.504, apply for such discounts to the entity designated by the Federal Communications Commission. An eligible school or library must renew its request for discounted rates each year in accordance with the annual filing requirements set forth in 47 C.F.R. § 54.507(d).*

2. *An eligible school or library that applies for discounted rates pursuant to subsection 1 must, within 15 days after submitting the application to the entity designated by the Federal Communications Commission, file a copy of the application with the commission.*

**Sec. 24.** *A provider of telecommunication service who provides intrastate telecommunication service to an eligible school or library shall provide such service at a discounted rates:*

1. *In accordance with the procedures and by the percentages set forth in 47 C.F.R. § 54.505; and*

2. *To the extent that federal universal service support or money from the fund for universal service is available to reimburse the amount of the discount.*

**Sec. 25.** 1. *A provider of telecommunication service that provides intrastate telecommunication service to an eligible school or library at a discounted rate may file an application with the commission requesting a disbursement of money from the fund for universal service for the amount of the discount if:*

(a) *The eligible school or library has met the requirements set forth in section 23 of this regulation; and*

(b) *Federal universal service support is not available to pay the entire amount of the discount.*

2. *The application filed pursuant to subsection 1 must include:*

(a) *The identity of each school and library to which discounts in the rates for intrastate services will be provided;*

- (b) A detailed description of each service that will be provided to each school and library, including, if applicable, references to intrastate tariffs on file at the commission;*
- (c) The nondiscounted rate for each service that will be provided;*
- (d) The percentage of discount that is applicable to each service;*
- (e) The difference between:*
- (1) The annual revenues that would be generated if the provider of telecommunication service provided the intrastate services to the schools and libraries at nondiscounted rates; and*
- (2) The annual revenues that will be generated at the discounted rates;*
- (f) Information which demonstrates that the nondiscounted rate is the lowest corresponding price charged by the provider of telecommunication service to nonresidential customers who are situated similarly to a particular school or library for similar services; and*
- (g) Information which demonstrates that federal universal service support is not available for the fiscal year to reimburse the amount of the discount in the rate for intrastate services.*
- 3. The commission will issue an order approving, denying or modifying an application filed pursuant to subsection 2 within 90 days after receipt of the application.*

**Sec. 26.** *1. A provider of health care that wishes to receive:*

- (a) The urban rate for an eligible telecommunications service, as determined pursuant to 47 C.F.R. § 54.605; or*
- (b) Access to an internet service provider,*
- must, in accordance with the procedures and requirements set forth in 47 C.F.R. § 54.615, file an application for such discounted service with the entity designated by the Federal Telecommunications Commission. A provider of health care must renew its application for*

*discounted rates each year in accordance with the annual filing requirements set forth in 47 C.F.R. § 54.623(d).*

*2. A provider of health care that applies for discounted rates pursuant to subsection 1 must, within 15 days after filing the application with the entity designated by the Federal Telecommunications Commission, file a copy of the application with the commission.*

**Sec. 27.** *1. Except as otherwise provided in subsection 2, a provider of telecommunication service who provides telecommunication service to a public or private nonprofit provider of health care that serves persons in a rural area shall, to the extent that federal universal service support or money from the fund for universal service is available, charge that provider of health care rates for available intrastate eligible telecommunications services that are no higher than the urban rates for such services, as determined pursuant to 47 C.F.R. § 54.605.*

*2. A provider of telecommunication service is not required to comply with the provisions of subsection 1 if the requested service is access to an internet service provider pursuant to 47 C.F.R. § 54.621(a).*

**Sec. 28.** *1. A provider of telecommunication service who is designated as an eligible telecommunications carrier and who provides intrastate eligible telecommunications services to a provider of health care pursuant to section 27 of this regulation may file an application with the commission requesting a disbursement of money from the fund for universal service for an amount equal to the difference between the urban rate and the rural rate for those services, as those rates are determined pursuant to 47 C.F.R. §§ 54.605 and 54.607.*

2. *Any telecommunications carrier who provides to a provider of health care intrastate access to an internet service provider may file an application with the commission requesting a disbursement of money from the fund for universal service for the costs of the toll charges for such access.*

3. *A disbursement of money from the fund for universal service will be made for the purposes set forth in subsections 1 and 2 only if:*

(a) *The provider of health care to whom the telecommunications carrier provides the discounted service meets the requirements set forth in section 26 of this regulation; and*

(b) *Federal universal service support is not available to pay the entire amount of the discount or costs of the toll charges.*

4. *An application filed pursuant to this section must include:*

(a) *The identity of each provider of health care to which discounted intrastate services will be provided at a discounted rate;*

(b) *A detailed description of each service that will be provided to each provider of health care, including, where applicable, references to intrastate tariffs on file at the commission;*

(c) *The rural rate for each service that will be provided, as determined pursuant to 47 C.F.R. § 54.607;*

(d) *The urban rate for each service that will be provided, as determined pursuant to 47 C.F.R. § 54.605;*

(e) *The difference between the annual revenues that would be generated if the provider provided the intrastate services to the provider of health care at the rural rate and the annual revenues that will be generated at the urban rate;*

(f) *The amount of money requested to support access to an internet service provider; and*

(g) *Information which demonstrates that federal universal service support is unavailable for the fiscal year to pay the amount of the discount or the costs of the toll charges.*

5. *The commission will issue an order approving, denying or modifying an application filed pursuant to this section within 90 days after receipt of the application.*

**Sec. 29.** *1. To be eligible as a qualifying low-income subscriber for the purposes of sections 30 and 32 of this regulation:*

(a) *The total household gross income of the subscriber must not exceed 150% of the federally established poverty levels set forth for the number of persons in the household of that subscriber;*

(b) *The residential premises at which the subscriber receives telecommunication service must be the principal place of residence of the subscriber; and*

(c) *The subscriber must have only one telephone line serving his residential premises.*

2. *To demonstrate the qualification set forth in paragraph (a) of subsection 1, the subscriber must submit to the provider of telecommunication service that serves the subscriber:*

(a) *The individual federal income tax return that the subscriber filed most recently with the Internal Revenue Service; or*

(b) *Documentation which proves that the subscriber receives benefits from one or more of the following programs of assistance:*

(1) *Medicaid;*

(2) *Food stamps;*

(3) *Supplemental security income;*

- (4) Federal public housing assistance;*
- (5) Low-income home energy assistance; or*
- (6) Aid to families with dependent children.*

**Sec. 30.** *1. A provider of telecommunication service shall offer to subscribers within its service area the following services:*

- (a) Lifeline; and*
- (b) Link up.*

*2. In offering lifeline service pursuant to subsection 1, a provider of telecommunication service shall offer to qualifying low-income subscribers a lifeline discount of at least \$5.25 per line per month. The rate for lifeline service after deduction of the discount must be no more than 60 percent of the amount of the monthly rate charged by the provider for one-party residential basic local exchange service, including the charge for a federal subscriber line.*

*3. As used in this section, "link up" has the meaning ascribed to it in 47 C.F.R. § 54.411(a).*

**Sec. 31.** *1. Except as otherwise provided in subsection 2, a provider of telecommunication service shall not disconnect service provided pursuant to a lifeline program if the subscriber fails to pay charges for toll calls.*

*2. A provider of telecommunication service may file with the commission an application for a waiver from the requirements of subsection 1.*

*3. The commission will approve an application for such a waiver only upon determining after investigation that the provider of telecommunication service:*

- (a) Would incur substantial costs to comply with the provisions of subsection 1;*

*(b) Offers, at no charge, toll limitation to its consumers that qualify as low-income consumers; and*

*(c) Provides service within a service area in which the level of telephone subscription among low-income consumers is equal to or greater than the national average rate of subscription for low-income consumers.*

*4. The commission will approve or deny an application that is filed pursuant to subsection 2 within 30 days after receipt of the application.*

*5. As used in this section, “low-income consumer” is a consumer whose income is below the poverty level established for a family of four that resides within the State of Nevada.*

**Sec. 32.** *1. Except as otherwise provided in subsection 2, a provider of telecommunication service shall not charge a service deposit to initiate service provided pursuant to a lifeline program if the qualifying low-income subscriber elects voluntarily to receive toll blocking from the provider.*

*2. The provider of telecommunication service may charge a service deposit to initiate service provided pursuant to a lifeline program if the qualifying low-income subscriber does not elect voluntarily to receive toll blocking or if toll blocking is unavailable.*

*3. As used in this section, “toll blocking” has the meaning ascribed to it in 47 C.F.R. § 54.400(b).*

**Sec. 33.** *1. A provider of telecommunication service who is designated as an eligible telecommunications carrier may file an application requesting a disbursement of money from the fund for universal service for reimbursement of the costs of providing a discount in the rate*

*for lifeline service pursuant to section 30 of this regulation. The amount of reimbursement requested must not exceed:*

*(a) The first \$5.25 per line per month; and*

*(b) One half of any available federal universal service support that exceeds \$5.25 per line per month,*

*up to the maximum level of federal support of \$7.00 per line per month, in accordance with 47 C.F.R. § 54.403(a).*

*2. An eligible telecommunications carrier may seek reimbursement from the fund for universal service for only the portion of the discount in the rate for lifeline service for which federal universal service support is not available.*

*3. The commission will issue an order approving, denying or modifying an application filed pursuant to subsection 1 within 90 days after receipt of the application.*

**Sec. 34.** *An eligible telecommunications carrier shall file with the person designated by the Federal Communications Commission as the administrator of federal universal service support, information that:*

*1. Demonstrates that the plan of the carrier for providing lifeline service meets the criteria set forth in 47 C.F.R. §§ 54.400 to 54.409, inclusive; and*

*2. States the number of qualifying low-income subscribers served by the carrier and the amount of state assistance that the carrier receives for providing discounted service to those subscribers.*

**Sec. 35.** 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 34, inclusive, of this regulation*, unless the context otherwise requires [:

1. “Administrator” means the independent administrator selected by the commission to administer the fund for universal service.
2. “Fund for universal service” means the fund established by the commission pursuant to NRS 704.040, which is intended to promote universal telephone service.
3. “Universal service” means the availability of affordable and reliable basic service to as many customers in this state as economically and operationally practicable.], *the words and terms used in sections 2 to 15, inclusive, of this regulation have the meanings ascribed to them in those sections.*

**Sec. 36.** NAC 704.68042 is hereby amended to read as follows:

704.68042 The fund for universal service is established to:

1. Ensure that the rates charged by a provider of basic service do not adversely affect universal service within all or a portion of the area served by that provider; [and]
2. Provide money to facilitate the extension of basic service to customers not currently offered telephone service, and to improve basic telephone service to the extent other viable options are not available to provide or improve basic service [.] ;
3. *Provide money to ensure that persons with low income and persons in rural, insular and high-cost areas have access to available intrastate telecommunication services that are reasonably comparable to those services available in urban areas at rates that are reasonably comparable to those charged in the urban areas, subject to any limitation on the size of the fund for universal service imposed by the commission;*

4. *Provide money to ensure that public or private nonprofit providers of health care which serve persons in rural areas have access to available intrastate telecommunication services that are reasonably comparable to those services available in urban areas at rates that are reasonably comparable to those charged in the urban areas, to the extent that federal universal service support is not available pursuant to 47 C.F.R. §§ 54.601 to 54.623, inclusive, to support fully that objective, and subject to any limitation on the size of the fund for universal service imposed by the commission; and*

5. *Provide money to support discounts of rates for intrastate telecommunication services provided to eligible schools and libraries, to the extent that federal universal service support is not available pursuant to 47 C.F.R. §§ 54.500 to 54.517, inclusive, to reimburse fully those discounts, and subject to any limitations on the size of the fund for universal service imposed by the commission.*

**Sec. 37.** NAC 704.68046 is hereby amended to read as follows:

704.68046 To qualify for a disbursement of money from the fund for universal service:

1. **[The]** *Except as otherwise provided in subsection 2, if the disbursement of money is for the purposes set forth in subsections 1 to 4, inclusive, of NAC 704.68042, the provider of telecommunication service must [be a provider of basic service in the market for which it seeks money to provide telecommunication service.*

**2.] :**

*(a) Be an eligible telecommunications carrier; and*

*(b) Unless otherwise specifically authorized by the commission, [the rates charged by the provider for basic service must be geographically averaged] average its rates for basic service*

*in a manner that is* consistent with NAC 704.68085 *[for the geographical area in which that basic service is provided.*

3. Unless otherwise specifically authorized by the commission, the provider of telecommunication service must have in effect the programs described in 47 C.F.R. Part 69.104 and 47 C.F.R. Part 36.711, as those parts exist on October 25, 1995.] *within the service area in which it is designated as an eligible telecommunications carrier.*

2. *If the disbursement of money is:*

(a) *For the purpose set forth in subsection 4 of NAC 704.68042; and*

(b) *Intended specifically to support the provision of access to an internet service provider pursuant to the provisions of 47 C.F.R. § 54.621,*

*the provider of telecommunication service is not required to be an eligible telecommunications carrier, but must have a certificate of public convenience and necessity issued by the commission.*

3. *If the disbursement of money is for the purpose set forth in subsection 5 of NAC 704.68042, the provider of telecommunication service must:*

(a) *Hold a certificate of public convenience and necessity issued by the commission;*

(b) *Meet the requirements for eligibility set forth in 47 C.F.R. § 54.501; and*

(c) *Provide services described in 47 C.F.R. § 54.502 at discounted rates pursuant to section 24 of this regulation.*

**Sec. 38.** 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 for universal service for the next calendar year based on the recommendation of the 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 certificated providers of telecommunication service required to recover this amount.

2. The assessment must be [collected by providers of telecommunication service and] remitted to the administrator *by a provider of telecommunication service* on a quarterly basis.

3. Any shortfall or overage in the fund for universal 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. 39.** NAC 704.68056 is hereby amended to read as follows:

704.68056 1. Except as otherwise provided in subsection 2, upon its initial request for money from the fund for universal service, and once every 4 years thereafter, a provider of basic service shall submit sufficient information to demonstrate its level of earnings pursuant to NAC 703.2501 to 703.27146, inclusive, as appropriate.

2. Except as otherwise provided in NAC 704.6805, a provider of telecommunication service does not have to submit information on its earnings or rates if:

(a) The provider is regulated pursuant to an alternative plan of regulation pursuant to NAC 704.6832 to 704.6847, inclusive, or 704.68474 to 704.68498, inclusive; [or]

(b) The provider is requesting a one-time disbursement of money from the fund for universal service to extend or improve basic service [.] ; or

*(c) The provider is requesting a disbursement of money from the fund for universal service pursuant to sections 25, 28 or 33 of this regulation.*

3. An application for a disbursement of money from the fund for universal service by a small provider of last resort of basic service to maintain affordable rates for basic service must

be submitted directly to the administrator. All other petitions must be submitted to the commission.

4. An application to the administrator must be submitted not later than 180 days before the beginning of the calendar year for which the money is being requested. A petition to the commission must be submitted 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 a petition submitted to it within 120 days after receiving the petition.

6. The administrator shall submit his report to the commission which sets forth the amount of money needed for the fund 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 administrator pursuant to this section within 90 days after the date on which the report is filed.

7. The commission may:

(a) For the initial year of operation of the fund for universal service, specify different deadlines for the filings pursuant to NAC 704.6804 to 704.68056, inclusive; and

(b) 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.