

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

**LCB File No. R006-09**

Effective October 27, 2009

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

AUTHORITY: §§1-3, 6-11 and 14-28, NRS 703.025, 704.040, 704.210 and 704.6873; §4, NRS 703.025, 704.040 and 704.6873; §5, NRS 703.025 and 704.210; §§12 and 13, NRS 703.025, 704.040, 704.210, 704.6873 and 710.140.

A REGULATION relating to public utilities; revising provisions relating to telecommunications; establishing a procedure to determine whether funding is required for the fund to maintain the availability of telephone service; changing the name of the Fund for Universal Service to the fund to maintain the availability of telephone service; revising provisions to expand the group of entities upon whom assessments may be levied; revising qualifications for disbursements of money from the fund to maintain the availability of telephone service; revising qualifications for designation as an eligible telecommunications carrier; revising provisions relating to the establishment of service areas; revising provisions relating to eligibility as a low-income subscriber; and providing other matters properly relating thereto.

**Section 1.** Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

**Sec. 2.** *“High-cost area” means an area determined by the Commission for which eligible telecommunications carriers may qualify for a disbursement of money from the fund to maintain the availability of telephone service:*

*1. For an area served by a small-scale provider of last resort, pursuant to NAC 704.68048; and*

*2. For an area served by a competitive supplier that is a provider of last resort, pursuant to NAC 704.6805.*

**Sec. 3.** *“Insular area” means a geographic area that is not within or contiguous to a Metropolitan Statistical Area as defined by the United States Office of Management and Budget.*

**Sec. 4. 1.** *A competitive supplier that is a provider of last resort may request that the Commission initiate proceedings to determine whether funding is required to fulfill the purpose of subsection 1 of NAC 704.68043. Any person who has made a payment to the fund to maintain the availability of telephone service pursuant to an assessment imposed pursuant to NAC 704.68054 may participate in the proceedings.*

*2. During the proceedings, the Commission will:*

*(a) Establish a model of costs to calculate the cost per line for the service area or other appropriate geographic area of the competitive supplier that is a provider of last resort;*

*(b) Adopt the appropriate benchmark using the cost per line to determine the cost of providing service to the high-cost area; and*

*(c) Determine the appropriate amount of money to provide service to the high-cost area, taking into consideration:*

*(1) The cost to maintain the availability of telephone service in rural, insular and high-cost areas while providing services that are reasonably comparable to those basic services available in urban areas at rates that are reasonably comparable to those rates charged in the urban areas in which the basic services are available; and*

*(2) The overall size of the fund to maintain the availability of telephone service.*

*3. On a biennial basis, the Commission will determine whether any adjustments or modifications are required to calculate the appropriate amount of money to provide service to*

*the high-cost area, as determined pursuant to subsection 2. The Commission may conduct such a meeting annually upon its own motion or upon a request by an interested person.*

**Sec. 5.** NAC 704.0055 is hereby amended to read as follows:

704.0055 “Basic service” means the provision *to a customer* of ~~[intraexchange]~~ telephone service ~~[and] that provides~~ access to ~~[long distance services,]~~ *the public switched telephone network*, which includes a single-party ~~[or multi-party]~~ access line or trunk, ~~[a]~~ dial tone, ~~[a]~~ touch tone, local usage, expanded local calling where available, access to emergency 911 service, and single-line directory listing. *Basic service includes services provided through an alternative technology, as that term is defined in subsection 5 of NRS 704.68881.*

**Sec. 6.** 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, 3 and 4 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 704.68041 to 704.680424, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

**Sec. 7.** NAC 704.68041 is hereby amended to read as follows:

704.68041 “Administrator” means the independent Administrator selected by the Commission to administer the ~~[Fund for Universal Service.]~~ *fund to maintain the availability of telephone service.*

**Sec. 8.** NAC 704.680415 is hereby amended to read as follows:

704.680415 “Fund ~~[for Universal Service]” means the Fund established by the Commission pursuant to NRS 704.040, which is intended]~~ to ~~[promote universal]~~ *maintain the availability of telephone service [.]” has the meaning ascribed to it in NRS 704.013.*

**Sec. 9.** NAC 704.6804213 is hereby amended to read as follows:

704.6804213 ~~["Small]~~ *"Small-scale* provider of last resort ~~[of basic service]" means a provider of last resort of basic service providing basic service to customers under the jurisdiction of the Commission through less than 10,000 access lines.]~~ *" has the meaning ascribed to it in NRS 704.023.*

**Sec. 10.** NAC 704.68043 is hereby amended to read as follows:

704.68043 The ~~[Fund for Universal Service]~~ *fund to maintain the availability of telephone 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;
2. Provide money to facilitate the extension of basic service to customers not currently offered telephone service, and to improve basic 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 ~~[:]~~ *on the size of the fund to maintain the availability of telephone service;*
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 ~~[.]~~ *on the size of the fund to maintain the availability of telephone service;* 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 ~~[.]~~ *on the size of the fund to maintain the availability of telephone service.*

**Sec. 11.** NAC 704.68044 is hereby amended to read as follows:

704.68044 The Administrator ~~[of the Fund for Universal Service]~~ shall:

1. Conduct periodic audits of contributors to the ~~[Fund for Universal Service]~~ *fund to maintain the availability of telephone service* to ensure that the correct payments are being remitted by ~~[the providers of]~~ *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 for Universal Service.]~~ *fund to maintain the availability of telephone service.*

3. Collect assessments from ~~[each provider of]~~ *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 for Universal Service.]~~ *fund to maintain the availability of telephone service.*

4. Disburse money from the ~~[Fund for Universal Service]~~ *fund to maintain the availability of telephone service* to ~~[providers of telecommunication service]~~ *eligible telecommunications carriers* who qualify for funding in accordance with NAC 704.6804 to 704.68056, inclusive, *and sections 2, 3 and 4 of this regulation*, and with applicable orders of the Commission.

5. Prepare ~~[an annual]~~ *at least annually* a report of all activities of the ~~[Fund for Universal Service]~~ *fund to maintain the availability of telephone service*, including:

(a) The total annual payments into the ~~[Fund]~~ *fund to maintain the availability of telephone service* from ~~[each provider of]~~ *all persons who provide* telecommunication service ~~[; and]~~ *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]~~ *fund to maintain the availability of telephone service* to each qualified ~~[provider of telecommunication service.]~~ *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 for Universal Service.]~~ *fund to maintain the availability of telephone service*, which includes:

(a) The estimated amount of money required to support the ~~[Fund]~~ *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).

**Sec. 12.** 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:]~~  
*fund to maintain the availability of telephone service:*

1. ~~[Except as otherwise provided in subsection 2, if]~~ *If* the disbursement of money is for the purposes set forth in ~~[subsections]~~ *subsection 1* ~~[to 4, inclusive,]~~ *or 2* of NAC 704.68043, the provider of telecommunication service must:

(a) Be an eligible telecommunications carrier; ~~[and]~~

(b) ~~[Unless otherwise specifically authorized by the Commission,]~~ *Be a provider of last resort; and*

(c) *If the provider of telecommunication service is a small-scale provider of last resort, average its rates for basic service in a manner that is consistent with NAC 704.68085 within the service area in which it is designated as an eligible telecommunications carrier.*

2. *If the disbursement of money is to ensure that persons with low income have access to available intrastate telecommunication services pursuant to subsection 3 of NAC 704.68043, the provider of telecommunication service must:*

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

(b) *If the provider of telecommunication service is a small-scale provider of last resort, average its rates for basic service in a manner that is consistent with NAC 704.68085 within the service area in which the provider of telecommunication service is designated as an eligible telecommunications carrier.*

3. If the disbursement of money is:

(a) For the purpose set forth in subsection 4 of NAC 704.68043; 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, *have filed with the Commission the information required by NAC*

*704.7862* or be a county telephone line or system.

~~3.1~~ 4. If the disbursement of money is for the purpose set forth in subsection 5 of NAC 704.68043, the provider of telecommunication service must:

(a) Hold a certificate of public convenience and necessity issued by the Commission, *have filed with the Commission the information required by NAC 704.7862* or be a county telephone line or system;

(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 NAC 704.680469.

**Sec. 13.** NAC 704.680461 is hereby amended to read as follows:

704.680461 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 or is a county telephone line or system.

(b) ~~Unless otherwise specifically authorized by the Commission pursuant to NAC 704.680462, offers~~ *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, without limitation, 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, advertises 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. 14.** NAC 704.680463 is hereby amended to read as follows:

704.680463 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 the telecommunication services set forth in 47 C.F.R. § 54.101(a); and
- (b) Is eligible to receive federal universal service support.

2. ~~Except as otherwise provided in subsection 3, a~~ *A rural* service area established by the Commission pursuant to subsection 1 must be identical to the study area of ~~the~~ *a* provider of ~~fast resort that provides basic~~ telecommunication service within ~~that~~ *a rural* area.

3. In an area served by a nonrural ~~telephone company,~~ *provider of telecommunication service*, any person may ~~petition~~ *request and* the Commission ~~for the establishment of~~ *may establish* a service area that ~~does not comply with the requirement set forth in subsection 2.~~ *is different from the area designated in the provider's certificate of public convenience and necessity.*

4. In determining whether to establish ~~an alternative~~ *a* service area, the Commission will consider:

- (a) Whether the establishment of ~~an alternative~~ *the* service area will promote competition;
- (b) Whether the establishment of ~~an alternative~~ *the* service area will promote universal service;
- (c) The potential effect that establishment of ~~an alternative~~ *the* service area may have on the ~~Fund for Universal Service;~~ *fund to maintain the availability of telephone service;* and
- (d) Any other factor that the Commission determines to be relevant.

~~4.~~ 5. *In an area served by a rural provider of telecommunication service, a person may not request that the Commission establish a service area that does not comply with the provision of subsection 2 unless:*

*(a) The provider of telecommunication service who seeks designation as an eligible telecommunications carrier:*

- (1) Requests that the Commission redefine the service area of the provider; and*
- (2) Otherwise intends to comply with the requirements of 47 C.F.R. § 54.207; or*

*(b) The Federal Communications Commission and the Public Utilities Commission of Nevada, after taking into account the recommended decision of a Federal-State Joint Board pursuant to 47 U.S.C. § 410(c), establish a different definition of “service area” for rural providers of telecommunication service.*

6. As used in this section:

(a) “Nonrural ~~[telephone company]~~ *provider of telecommunication service*” means a provider of last resort that does not meet the definition of a rural telephone company, as that term is defined in 47 C.F.R. § 51.5.

(b) *“Rural provider of telecommunication service” means a provider of last resort that meets the definition of a rural telephone company, as that term is defined by 47 C.F.R. § 51.5.*

(c) “Study area” means a geographic area defined by the Federal Communications Commission for each provider of last resort.

**Sec. 15.** NAC 704.680464 is hereby amended to read as follows:

704.680464 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]~~ *fund to maintain the availability of telephone service* for the purposes set forth in NAC 704.68043 ~~[ ]~~ *and in accordance with the conditions set forth in NAC 704.68046.*

**Sec. 16.** NAC 704.680469 is hereby amended to read as follows:

704.680469 A provider of telecommunication service who provides intrastate telecommunication service to an eligible school or library shall provide such service at 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~~ *fund to maintain the availability of telephone service* is available to reimburse the amount of the discount.

**Sec. 17.** NAC 704.68047 is hereby amended to read as follows:

704.68047 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~~ *fund to maintain the availability of telephone service* for the amount of the discount if:

- (a) The eligible school or library has met the requirements set forth in NAC 704.680468; 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, without limitation, references to intrastate tariffs on file at the Commission, if applicable;
- (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 calendar 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 this section within 90 days after receipt of the application.

**Sec. 18.** NAC 704.680472 is hereby amended to read as follows:

704.680472 1. An eligible telecommunications carrier 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~~ *fund to maintain the availability of telephone 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 who provides access to an Internet service provider to a public or private nonprofit provider of health care that ~~services~~ *serves* persons in a rural area, shall provide credits for toll charges associated with such access pursuant to 47 C.F.R. § 54.621(a).

**Sec. 19.** NAC 704.680473 is hereby amended to read as follows:

704.680473 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 NAC 704.680472 may file an application with the Commission requesting a disbursement of money from the ~~[Fund for Universal Service]~~ *fund to maintain the availability of telephone 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]~~ *offers* 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]~~ *fund to maintain the availability of telephone service* for the costs of the toll charges for such access.

3. A disbursement of money from the ~~[Fund for Universal Service]~~ *fund to maintain the availability of telephone 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 NAC 704.680471; 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, without limitation, references to intrastate tariffs on file at the Commission, if applicable;

(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 calendar 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. 20.** 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) The total household gross income of the subscriber must not exceed : ~~{150}~~

*(1) One hundred seventy-five* percent of the federally established poverty levels set forth for the number of persons in the household of that subscriber ~~{}~~ *if a competitive supplier that is an incumbent local exchange carrier provides telecommunication service; or*

*(2) One hundred fifty percent of the federally established poverty levels set forth for the number of persons in the household of that subscriber if telecommunication service is provided by:*

*(i) A small-scale provider of last resort;*

*(ii) A competitive supplier that is not an incumbent local exchange carrier; or*

*(iii) A provider of telecommunication service that has filed with the Commission the information required by NAC 704.7862;*

*(b) The name of the subscriber must appear on the list provided by the Department of Health and Human Services pursuant to NRS 707.470 or the subscriber must receive 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;*

*(6) Temporary Assistance for Needy Families program; or*

*(7) National School Lunch Program;*

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

~~(e)~~ *(d) 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 ~~f~~

~~—(a) Documentation]~~ *documentation* which demonstrates the total household gross income of the subscriber from one or more of the following sources:

~~[(1)]~~ (a) The subscriber's most recent federal income or tribal tax return ~~];~~ *for the subscriber's household;* or

~~[(2)]~~ (b) All statements of income, as that term is defined in 47 C.F.R. § 54.400(f), for the subscriber's household for 3 consecutive months within the ~~[same calendar year; or~~

~~(b) Documentation]~~ *12 months preceding the anticipated initiation of service to be provided pursuant to a Lifeline program.*

3. *To demonstrate the qualifications set forth in subparagraphs (1) to (7), inclusive, of paragraph (b) of subsection 1, the subscriber must submit to the provider of telecommunication service that serves the subscriber documentation* which proves that the subscriber receives benefits from one or more of the following programs of assistance:

~~[(1)]~~ (a) Medicaid;

~~[(2)]~~ (b) Food stamps;

~~[(3)]~~ (c) Supplemental security income;

~~[(4)]~~ (d) Federal public housing assistance;

~~[(5) Low income home energy assistance;]~~ (e) *Low-Income Home Energy Assistance;*

~~[(6)]~~ (f) Temporary Assistance for Needy Families ~~[Program;]~~ *program;* or

~~[(7)]~~ (g) National School Lunch Program.

~~[3.]~~ 4. The documentation required pursuant to subsection 2 *or 3, as applicable,* must be presented to and accepted by the provider of telecommunication service before the provider of telecommunication service may enroll the subscriber in the Lifeline or Link Up services. A

provider of telecommunication service shall retain such documentation in accordance with 47 C.F.R. § 54.417, as that section existed on September 7, 2005.

**Sec. 21.** NAC 704.6804743 is hereby amended to read as follows:

704.6804743 1. An eligible telecommunications carrier shall verify that each subscriber of the eligible telecommunications carrier who receives Lifeline or Link Up services remains eligible to receive those services as follows:

(a) To verify the continued eligibility of a subscriber who submitted documentation in accordance with ~~paragraph (a) of~~ subsection 2 of NAC 704.680474 to establish his eligibility to receive Lifeline or Link Up services, the eligible telecommunications carrier shall annually contact the subscriber and request that the subscriber provide to the eligible telecommunications carrier updated documentation in accordance with subsection 2 of NAC 704.680474 which demonstrates that the subscriber remains eligible to receive Lifeline or Link Up services.

(b) To verify the continued eligibility of a subscriber who submitted documentation pursuant to ~~paragraph (b) of~~ subsection ~~2~~ 3 of NAC 704.680474 to establish his eligibility to receive Lifeline or Link Up services, the eligible telecommunications carrier shall review the list provided by the Department of Health and Human Services pursuant to NRS 707.470 of persons who are eligible to receive Lifeline or Link Up services. If the name of a subscriber no longer appears on the list, the eligible telecommunications carrier shall contact the subscriber and request that the subscriber provide to the eligible telecommunications carrier updated documentation in accordance with subsection ~~2~~ 3 of NAC 704.680474 demonstrating that the subscriber remains eligible to receive Lifeline or Link Up services.

2. If a subscriber fails to provide the updated documentation pursuant to subsection 1 within 60 days after receiving a request for the documentation, the subscriber shall be deemed to be

ineligible to receive Lifeline or Link Up services, and the eligible telecommunications carrier shall switch the rate for telephone service for the subscriber to the regular rate for telephone service.

**Sec. 22.** NAC 704.6804745 is hereby amended to read as follows:

704.6804745 An officer or other authorized representative of an eligible telecommunications carrier shall certify that the eligible telecommunications carrier is in compliance with the procedures for certifying income established for the Lifeline and Link Up programs in this State and shall certify that, to the best of his knowledge, documentation of income was presented by each subscriber as required in NAC 704.680474 and 704.6804743. For the purposes of this section, the officer or authorized representative may rely on the information provided by the Department of Health and Human Services as evidence that a subscriber is receiving benefits from a program of assistance described in ~~paragraph (b) of~~ subsection ~~[2]~~ 3 of NAC 704.680474.

**Sec. 23.** NAC 704.680478 is hereby amended to read as follows:

704.680478 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]~~ *fund to maintain the availability of telephone service* for reimbursement of the costs of providing a discount in the rate for Lifeline service pursuant to NAC 704.680475. The amount of reimbursement requested per line per month must not exceed the difference between the amount of the Lifeline discount offered by the provider pursuant to NAC 704.680475 and the amount of federal universal service support available for the discount pursuant to 47 C.F.R. § 54.403(a).

2. An eligible telecommunications carrier may seek reimbursement from the ~~{Fund for Universal Service}~~ *fund to maintain the availability of telephone 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. 24.** NAC 704.68048 is hereby amended to read as follows:

704.68048 1. To qualify for money from the ~~{Fund for Universal Service}~~ *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}~~ *small-scale* provider of last resort ~~{of basic service}~~ must meet the following requirements:

(a) Its rates for interstate and intrastate switched access must be in parity, or the ~~{small}~~ *small-scale* provider of last resort ~~{of basic service}~~ 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 basic service ~~{, exclusive of the charge for a subscriber line,}~~ must be ~~{between \$8 to \$16 for residential customers and \$16 to \$20 for business customers,}~~ *reasonably comparable to rates charged for similar services in urban areas*, or the ~~{small}~~ *small-scale* provider of last resort ~~{of basic service}~~ must agree to carry out a plan approved by the Commission designed to set those rates ~~{within these ranges}~~ *at levels reasonably comparable to rates charged for similar services in urban areas* within the time specified by the Commission.

2. Any disputes regarding the qualification of a ~~{small}~~ *small-scale* provider of last resort ~~{of basic service}~~ to receive money from the ~~{Fund for Universal Service}~~ *fund to maintain the availability of telephone service* will be resolved by the Commission at the request of the Administrator or of any other interested party.

3. If a ~~{small}~~ *small-scale* provider of last resort of basic service is qualified pursuant to this section to receive money from the ~~{Fund for Universal Service}~~ *fund to maintain the availability of telephone service*, an opposing party who disputes that determination has the burden of demonstrating that the ~~{small}~~ *small-scale* provider should not be allowed to receive money to support basic service rates.

4. A ~~{small}~~ *small-scale* provider of last resort ~~{of basic service}~~ who is qualified pursuant to this section to receive money from the ~~{Fund for Universal Service}~~ *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}~~ *small-scale* provider of last resort, ~~{of basic service}~~ as calculated pursuant to subsection 1 of NAC 704.68056, must be below the rate of return authorized for the ~~{small}~~ *small-scale* provider by the Commission. ~~{for eligibility to receive money from the Fund}~~ A request for money from the ~~{Fund for Universal Service}~~ *fund to maintain the availability of telephone service* is subject to audit by the Administrator or the Commission ~~{}~~ *and its staff*.

**Sec. 25.** NAC 704.6805 is hereby amended to read as follows:

704.6805 1. ~~[A large]~~ *After the Commission has conducted proceedings pursuant to section 4 of this regulation, a competitive supplier that is a provider of last resort ~~[of basic service]~~ may file a petition with the Commission to receive money from the ~~[Fund for Universal Service]~~ fund to maintain the availability of telephone service to keep its rates for basic services at an affordable level. The ~~[large provider of last resort of basic service]~~ competitive supplier has the burden of demonstrating that circumstances exist which justify its eligibility to receive money from the ~~[Fund for Universal Service.]~~ fund to maintain the availability of telephone service.*

2. The Administrator may distribute money from the ~~[Fund for Universal Service]~~ fund to maintain the availability of telephone service for a ~~[large]~~ competitive supplier that is a provider of last resort ~~[of basic service]~~ pursuant to this section only to the extent authorized by the Commission.

3. *A competitive supplier that is a provider of last resort that receives money from the Administrator for the purposes set forth in subsection 1 or 2 of NAC 704.68043 shall certify to the Commission annually that the competitive supplier has used the money from the fund to maintain availability of telephone services for the purposes set forth in NAC 704.68043 and 47 U.S.C. § 254. In the case of a monthly per-line reimbursement to recover the cost of providing service determined pursuant to subsection 2 of section 4 of this regulation, the competitive supplier shall also provide to the Commission, on a form prescribed by, and posted on the website of, the Commission a certification of the number of customers in high-cost areas that the competitive supplier served during each month of the reporting period established by the Commission. A corporate officer of the competitive supplier must affirm that the information submitted pursuant to this subsection is true and accurate by making a notarized attestation.*

**Sec. 26.** 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]~~ *fund to maintain the availability of telephone 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 providers of telecommunication service required to recover this amount.

2. The assessment must be 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]~~ *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.

**Sec. 27.** NAC 704.68056 is hereby amended to read as follows:

704.68056 1. ~~[Except as otherwise provided in subsection 2, upon]~~ *Upon* its initial request for money from the ~~[Fund for Universal Service,]~~ *fund to maintain the availability of telephone service*, and once every 4 years thereafter, a *small-scale* provider of ~~[basic service]~~ *last resort* shall submit sufficient information to demonstrate its level of earnings pursuant to NAC ~~[703.2501]~~ *703.27116* to 703.27146, inclusive, as appropriate.

2. ~~[Except as otherwise provided in NAC 704.6805, a]~~ *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 for Universal Service~~ *fund to maintain the availability of telephone service* to extend or improve basic service; or

~~(b)~~ (c) The provider is requesting a disbursement of money from the ~~Fund for Universal Service~~ *fund to maintain the availability of telephone service* pursuant to NAC 704.68047 ~~(c)~~ or 704.680473 . ~~(or 704.680478.)~~

3. An application for a disbursement of money from the ~~Fund for Universal Service~~ *fund to maintain the availability of telephone service* by a ~~small~~ *small-scale* provider of last resort ~~of basic service~~ to maintain affordable rates for basic service must be submitted directly to the Administrator. All other ~~petitions~~ *applications* 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~~ *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 ~~a petition~~ *an application* submitted to it within 120 days after receiving the ~~petition.~~ *application.*

6. The Administrator shall submit his report to the Commission which sets forth the amount of money needed for the ~~Fund for Universal Service~~ *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 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]~~ *grant* a deviation or waiver from the deadlines for the filings pursuant to NAC 704.6804 to 704.68056, inclusive, *and sections 2, 3 and 4 of this regulation* to the extent it determines that the deviation or waiver is in the public interest.

**Sec. 28.** NAC 704.6804155 and 704.680462 are hereby repealed.

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### TEXT OF REPEALED SECTIONS

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**704.6804155** “Large provider of last resort of basic service” defined. (NRS 703.025, 704.040, 704.210, 704.6873) “Large provider of last resort of basic service” means a provider of last resort of basic service providing basic service to customers under the jurisdiction of the Commission through 10,000 or more access lines.

**704.680462** Application for temporary waiver from requirement to offer certain services by provider seeking designation as eligible telecommunications carrier; conditions for approval; period for validity of waiver. (NRS 703.025, 704.040, 704.210, 704.6873)

1. Notwithstanding the provisions of NAC 704.680461, 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 NAC 704.680461.

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.

## NOTICE OF ADOPTION OF REGULATION

The Public Utilities Commission of Nevada adopted regulations on September 16, 2009, assigned LCB File No. R006-09, which pertain to Chapter 704 of the Nevada Administrative Code.

### INFORMATIONAL STATEMENT

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

Copies of the proposed regulations, notice of intent to act upon the regulation and notice of workshop and hearing were sent by U.S. mail to persons who were known to have an interest in the subject of telecommunications as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Public Utilities Commission of Nevada ("PUCN"), <http://pucweb1.state.nv.us/PUCN/>, mailed to all county libraries in Nevada, published in the following newspapers:

Elko Daily Free Press  
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  
101 Convention Center Drive, Suite 250  
Las Vegas, Nevada 89109

First Judicial District Court  
885 East Musser Street  
Carson City, Nevada 89701

Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501

Eighth Judicial District Court  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, Nevada 89155

The Phase V regulations establish eligibility requirements for competitive suppliers that are providers of last resort to apply to receive payments from the fund to maintain the availability of telephone service based on the need of such competitive suppliers for funding to maintain the availability of telephone service to rural, insular and high-cost areas. The proposed regulations also increase the rate of lifeline eligibility pursuant to NRS 704.6873(3)(a) as amended by Assembly Bill 518. Some participants proposed

adopting a cost model to calculate the per line cost by wire center as opposed to the entire service area of the competitive supplier that is a provider of last resort. The participants proposed conducting the proceeding to determine high cost support on a biennial basis rather than on an annual basis. The participants proposed adding back in the existing language in NAC 704.680474(b) and (c). Lastly, the participants suggested other non-substantive revisions to clarify the regulation.

A copy of the transcript of the proceedings is available for review at the PUCN's website at <http://pucweb1.state.nv.us/PUCN> and at the offices of the PUCN, 1150 East William Street, Carson City, Nevada 89701 and 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

**2. The number of persons who:**

**(a) Attended each hearing:** December 5, 2008 - 10

**(b) Testified at each hearing:** December 5, 2008 - 4

**(c) Submitted to the agency written comments:** 8

**3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation 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 #1.

**4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The proposed regulations were adopted on September 16, 2009. They were revised as proposed above by the participants, except the regulation allows the Commission to determine a cost model to calculate the per line cost for the service area "or other appropriate geographic area" of the competitive supplier that is a provider of last resort.

**5. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**

**(a) Both adverse and beneficial effects; and**

**(b) Both immediate and long-term effects.**

(a) Both adverse and beneficial effects:

The proposed regulations will have beneficial immediate and long-term economic effects on the businesses that they are to regulate and on the public by creating a regulatory scheme intended to promote more competition in the local telephone market. Many of the new or revised regulations may benefit the public and small businesses who are

customers of telecommunication providers. For instance, they may see more competitive pricing and additional services being offered as a result of the competitive environment that A.B. 518 was meant to foster.

(b) Both immediate and long-term effects:

See Item # 5(a).

**6. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the agency for enforcement of these regulations.

**7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

These regulations do not overlap or duplicate any federal, state, or local regulations.

**8. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

N/A

**9. 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

**10. If the proposed regulation is likely to impose a direct and significant economic 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 PUCN has determined that the proposed regulations do not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business. In making this determination, the PUCN adopted the findings of the Regulatory Operations Staff, which conducted a Delphi Method exercise to determine the impacts. The Delphi Method is a systematic, interactive, forecasting method based on independent inputs of selected experts.