

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

LCB File No. R087-09

Effective January 28, 2010

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

AUTHORITY: §§1 and 2, NRS 703.025, 704.210, 704.6873 and 707.490.

A REGULATION relating to public utilities; requiring the Administrator of the fund to maintain the availability of telephone service to prepare a quarterly report rather than an annual report concerning collections for and disbursements from the fund; providing the manner by which certain providers of telecommunication service may request a reimbursement from the fund to maintain the availability of telephone service for the cost of providing a Lifeline discount; prohibiting certain providers of telecommunication service from seeking a Lifeline reimbursement in certain circumstances; requiring the Administrator to disburse Lifeline reimbursements quarterly to providers of telecommunication service that meet certain requirements; limiting the amount of the Lifeline reimbursement to \$3.50 per line per month; and providing other matters properly relating thereto.

Section 1. NAC 704.68044 is hereby amended to read as follows:

704.68044 The Administrator shall:

1. Conduct periodic audits of contributors to the fund to maintain the availability of telephone service to ensure that the correct payments are being remitted by 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 to maintain the availability of telephone service.

3. Collect assessments from 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 to maintain the availability of telephone service.

4. Disburse money from the fund to maintain the availability of telephone service to 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~~ *LCB File No. R006-09, which was adopted by the Public Utilities Commission of Nevada and filed with the Secretary of State on October 27, 2009*, and with applicable orders of the Commission.

5. Prepare ~~at least annually~~ a *quarterly* report of all activities of the fund to maintain the availability of telephone service, including:

(a) The total ~~annual~~ *quarterly and year-to-date* payments into the fund to maintain the availability of telephone service from all persons who provide 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;

(b) An itemization of all disbursements from the fund to maintain the availability of telephone service to each qualified 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 to maintain the availability of telephone service, which includes:

(a) The estimated amount of money required to support the 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. 2. 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]~~ *directly with the Administrator a request for* a disbursement of money from the 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 *\$3.50 or* 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) ~~[]~~, *whichever is less.*

2. An eligible telecommunications carrier may seek reimbursement from the fund to maintain the availability of telephone service for only *\$3.50 per line per month or* the portion of the discount in the rate for Lifeline service for which federal universal service support is not available ~~[]~~, *whichever is less.*

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.]~~ *Not later than 180 days before the beginning of the first period for which the eligible telecommunications carrier*

may seek reimbursement pursuant to this section, an eligible telecommunications carrier shall submit directly to the Administrator a report which provides:

(a) An estimate of the amount of the reimbursement the eligible telecommunications carrier expects to request for the forecasted calendar year;

(b) The expected number of subscribers to the Lifeline service of the eligible telecommunications carrier for each month of the forecasted calendar year; and

(c) The amount of the Lifeline discount per line per month.

4. An eligible telecommunications carrier must file directly with the Administrator, not later than 30 days after the close of each calendar quarter, a request for a disbursement from the fund to maintain the availability of telephone service in the amount of \$3.50 per line per month or the difference between the total amount of the Lifeline discount provided by the eligible telecommunications carrier and the total amount of federal universal service support available to the eligible telecommunications carrier pursuant to 47 C.F.R. § 54.403(a), whichever is less. The request must include a statement of:

(a) The average number of subscribers to the Lifeline service provided by the eligible telecommunications carrier in each full month of the quarter;

(b) The amount of the Lifeline discount per line per month; and

(c) The amount of the reimbursement per line per month that the eligible telecommunications carrier will seek beginning with the quarter following the quarter for which the request was filed.

5. An eligible telecommunications carrier may not seek reimbursement from the fund to maintain the availability of telephone service for a Lifeline discount if the customer who subscribes to Lifeline service and who is not an eligible resident of tribal lands is charged a

rate of less than \$3.50 per line per month for basic network service or basic network service provided by an alternative technology pursuant to NRS 704.68881.

6. The Administrator shall disburse quarterly to eligible telecommunications carriers that satisfy the requirements of this section the reimbursement from the fund to maintain the availability of telephone service for the cost of providing a Lifeline discount. The reimbursement to each eligible telecommunications carrier must not exceed \$3.50 per line per month.

7. This section applies only to the request of an eligible telecommunications carrier for a disbursement of money from the fund to maintain the availability of telephone service to reimburse the eligible telecommunications carrier for the cost of providing a Lifeline discount.

8. As used in this section, “eligible resident of tribal lands” has the meaning ascribed to it in 47 C.F.R. § 54.400.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS
AS REQUIRED BY NRS 233B.066
LCB FILE R087-09 (DOCKET NO. 08-11007)**

The following informational statement is submitted for adopted amendments to Nevada Administrative Code (“NAC”) Chapter 703 and 704.

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 proposed regulations provide the manner by which an eligible telecommunications carrier (“ETC”) may request reimbursement from the fund to maintain the availability of telephone service for the cost of providing a Lifeline discount. The participants proposed revising the regulations to change the reporting requirements of the Administrator of the fund from annually to quarterly and year to date. The participants also proposed revising the regulations to prohibit an ETC from seeking reimbursement from the fund for a Lifeline discount where the customer who subscribes to Lifeline service and who is not an eligible resident of Tribal lands is charged a rate of less than \$3.50 per line per month.

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:** November 30, 2009 - 10
- (b) **Testified at each hearing:** November 30, 2009 - 3
- (c) **Submitted to the agency written comments:** 10

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 December 16, 2009. They were revised as proposed above by the participants.

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 are expected to have beneficial immediate and long-term economic effects on the businesses that they are to regulate and on the public by reimbursing an eligible provider the difference between the amount of the reduction in rates provided by an eligible provider to an eligible customer for lifeline services and the amount received as universal service support pursuant to 47 U.S.C. § 254, and by increasing lifeline subscribership.

(b) Both immediate and long-term effects:

See Item # 5(a).

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

It is unknown at this time whether there will be an additional cost to the PUCN for the enforcement of the proposed 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.