

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

LCB File No. R059-17

October 4, 2017

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

AUTHORITY: §§1-3, NRS 703.025, 704.040, as amended by section 1 of Senate Bill No. 412, Chapter 117, Statutes of Nevada 2017, at page 512, 704.210, 704.6873.

A REGULATION relating to telecommunications; revising provisions governing eligibility for, termination of and de-enrollment from Lifeline service; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Public Utilities Commission of Nevada to regulate public utilities that provide telecommunication service to the public. (Chapter 704 of NRS) Existing law also requires the Commission to adopt regulations relating to the provision of Lifeline service, a federal program that provides discounts on monthly telephone service for eligible low-income customers. (NRS 704.6873)

Sections 1 and 2 of this regulation revise provisions governing eligibility for Lifeline service and provisions governing lists of such eligible persons to reflect changes to federal regulations governing Lifeline service. (47 C.F.R. § 54.409)

Section 3 of this regulation revises provisions governing termination of and de-enrollment from Lifeline service to directly reference the applicable federal requirements. (47 C.F.R. § 54.405)

Section 1. NAC 704.680474 is hereby amended to read as follows:

704.680474 1. To be eligible as a qualifying low-income subscriber for the purposes of NAC 704.680475 and 704.680477, a prospective subscriber must not currently be receiving Lifeline service, there must not be any other person in the prospective subscriber’s household who is currently receiving Lifeline service and:

(a) The total household gross income, as described in 47 C.F.R. § 54.400(f), of the prospective subscriber must not exceed ~~175~~ **135** percent of the federally established poverty levels set forth for the number of persons in the household of that prospective subscriber; or

(b) The prospective subscriber, one or more of the prospective subscriber's dependents or the prospective subscriber's household must receive benefits from one or more of the following programs of assistance:

- (1) Medicaid;
- (2) The Supplemental Nutrition Assistance program;
- (3) The Supplemental Security Income Program;
- (4) Federal public housing assistance;
- (5) ~~The Low Income Home Energy Assistance Program;~~
- ~~(6) The Temporary Assistance for Needy Families program;~~
- ~~(7) The National School Lunch Program;~~
- ~~(8) Veterans and Survivors Pension benefit;~~
- (6) Bureau of Indian Affairs general assistance;
- ~~(9)~~ (7) Tribally administered Temporary Assistance for Needy Families;
- ~~(10)~~ (8) Head Start; or
- ~~(11)~~ (9) The Food Distribution Program on Indian Reservations.

2. For the purposes of subsection 1, there may be more than one household at a single physical address, but a prospective subscriber must affirmatively certify that any other person who receives Lifeline service at the same physical address is not a member of the prospective subscriber's household.

3. To demonstrate that he or she meets the income-eligibility requirements set forth in paragraph (a) of subsection 1, the prospective subscriber must submit to the eligibility responsibility party, and the eligibility responsibility party must review, documentation which demonstrates that the prospective subscriber meets the income-eligibility requirements set forth in that paragraph. Such documentation must, at a minimum, cover any period of 3 consecutive months during the 12-month period immediately preceding the date of application, and may include, without limitation:

- (a) State or federal income or tribal tax returns from the year immediately preceding the date of application;
- (b) Current income statements from an employer or paycheck stubs;
- (c) A statement of benefits from the Social Security Administration;
- (d) A statement of benefits from the United States Department of Veterans Affairs;
- (e) A statement of benefits from a pension or benefit program;
- (f) A statement of benefits from an unemployment or workers' compensation program;
- (g) A notice letter of participation in federal or tribal general assistance;
- (h) A divorce decree or child support award; or
- (i) Any other documentation which contains income information.

4. To demonstrate compliance with the requirements set forth in paragraph (b) of subsection 1, the prospective subscriber must submit to the eligibility responsibility party, and the eligibility responsibility party must review, documentation which proves that the prospective subscriber meets the relevant program-based eligibility requirements for Lifeline service. Such documentation may include, without limitation:

(a) A statement of benefits from the relevant program of assistance for the year in which the prospective subscriber is applying for Lifeline service or for the year immediately preceding the date of application;

(b) A notice or letter of participation from the relevant program of assistance; or

(c) Any other official documentation which demonstrates that the prospective subscriber, one or more of the prospective subscriber's dependents or the prospective subscriber's household is receiving benefits from the relevant program of assistance.

5. Before an eligible telecommunications carrier may enroll the prospective subscriber in Lifeline service, the eligibility responsibility party shall:

(a) Collect from the prospective subscriber or the eligible telecommunications carrier, as applicable, the certification documentation required by 47 C.F.R. § 54.410(d);

(b) Review the information submitted to the eligibility responsibility party pursuant to subsection 3 or 4, as applicable;

(c) Query the National Lifeline Accountability Database to ensure that the subscriber is not already receiving Lifeline service; and

(d) If the eligibility responsibility party is the Eligibility Administrator, provide to each eligible telecommunications carrier copies of the certifications.

6. The eligibility responsibility party shall retain copies of the documentation concerning the subscriber's income-based or program-based eligibility for Lifeline service only in accordance with the provisions of this section and 47 C.F.R. §§ 54.410(b)(1)(ii) and 54.410(c)(1)(ii).

7. The eligibility responsibility party shall, consistent with the provisions of 47 C.F.R. §§ 54.410 and 54.417, keep and maintain accurate records concerning:

(a) The source from which the eligibility responsibility party obtained the information used to determine the subscriber's income-based or program-based eligibility for Lifeline service; and

(b) The documentation provided by the subscriber to the eligibility responsibility party to demonstrate the subscriber's eligibility for Lifeline service.

Sec. 2. NAC 704.6804742 is hereby amended to read as follows:

704.6804742 1. If the Department of Health and Human Services maintains a list of persons who are eligible to receive benefits from one or more of the following programs of assistance:

- (a) Medicaid;
- (b) The Supplemental Nutrition Assistance program;
- (c) The Supplemental Security Income Program;
- (d) Federal public housing assistance;
- (e) ~~The Low Income Home Energy Assistance Program;~~
- ~~(f) The Temporary Assistance for Needy Families program;~~
- ~~(g) The National School Lunch Program;~~
- ~~(h) *Veterans and Survivors Pension benefit;*~~
- (f) Bureau of Indian Affairs general assistance;
- ~~(i)~~ (g) Tribally administered Temporary Assistance for Needy Families;
- ~~(j)~~ (h) Head Start; or
- ~~(k)~~ (i) The Food Distribution Program on Indian Reservations,

↪ the Department may, consistent with the provisions of NRS 707.485, provide to the eligibility responsibility party a list of such persons for the exclusive purpose of determining or verifying the status of a qualifying low-income subscriber.

2. If the Department of Health and Human Services determines that it cannot gain access to or distribute any information described in subsection 1, the Department may submit to the Commission an informational filing explaining the Department's determination, which may include, without limitation, any information and citation to any relevant law or regulation that supports the Department's determination that it cannot gain access to or distribute the information described in subsection 1.

Sec. 3. NAC 704.680476 is hereby amended to read as follows:

704.680476 1. If an eligible telecommunications carrier has a reasonable basis to believe that a subscriber of Lifeline service no longer meets the criteria to be considered a qualifying low-income subscriber, the carrier shall provide to the subscriber, and the eligibility responsibility party, if applicable, written notice of impending termination of the Lifeline service. The notice must be written in easily understood language and delivered to the subscriber separate from the subscriber's bill, if one is provided. The eligible telecommunications carrier shall terminate the Lifeline service provided to the subscriber if the subscriber does not provide proof of continued eligibility to receive Lifeline service in a manner consistent with the provisions of 47 C.F.R. § 54.405(e)(1).

2. If the Universal Service Administrative Company provides notice to an eligible telecommunications carrier that a subscriber is receiving Lifeline service from another eligible telecommunications carrier or that more than one member of the subscriber's household is receiving Lifeline service, the carrier must de-enroll the subscriber from participation in the carrier's Lifeline program within 5 business days after receiving such notice from the Universal Service Administrative Company. The eligible telecommunications carrier is not eligible for

reimbursement for Lifeline service provided to a de-enrolled subscriber after the date on which the subscriber is de-enrolled.

3. If a subscriber of Lifeline service does not ~~for during any period of 60 consecutive days,~~ use a Lifeline service that does not require an eligible telecommunications carrier to assess or collect a monthly fee from its qualifying low-income subscribers ~~for~~ *for the period of time specified in 47 C.F.R. § 54.405(e)(3)*, the carrier must provide to the subscriber written notice ~~that the subscriber's failure to use the Lifeline service within 30 days after receipt of the notice will result in~~ *regarding the potential* termination of the Lifeline service ~~. The notice must be written in easily understood language and delivered to the subscriber separate from the subscriber's bill, if one is provided.~~ *pursuant to 47 C.F.R. § 54.405(e)(3)*. A carrier shall not terminate Lifeline service ~~if a subscriber to whom such notice is provided uses the Lifeline service within the 30-day period specified in the notice.~~ *for non-usage, as described in 47 C.F.R. § 54.405(e)(3), unless the requirements set forth in 47 C.F.R. § 54.405(e)(3) are met.* As used in this subsection, “use” has the meaning ascribed to the term “usage” in 47 C.F.R. § 54.407(c)(2).

4. *If an eligible telecommunications carrier receives a request from a subscriber to de-enroll, the eligible telecommunications carrier must de-enroll the subscriber pursuant to 47 C.F.R. § 54.405(e)(5).*

5. Any recertification request made by the eligibility responsibility party to a subscriber of Lifeline service must comply with the provisions of 47 C.F.R. §§ 54.405(e)(4) and 54.410(f).

~~5.~~ 6. Except as otherwise provided in subsection ~~7.~~ 8, an eligible telecommunications carrier shall not disconnect service provided pursuant to a Lifeline program solely on the basis that the subscriber fails to pay charges for toll calls.

~~16.1~~ 7. An eligible telecommunications carrier shall enroll a subscriber who is eligible for the Lifeline program or the Tribal Link Up program, or both, but who has outstanding unpaid toll charges if the subscriber agrees to toll blocking service and sets up a payment arrangement with the carrier for the payment of the unpaid toll charges. To reestablish toll service, the subscriber must pay the outstanding toll charges in full.

~~17.1~~ 8. An eligible telecommunications carrier may file with the Commission an application for a waiver from the requirements of subsections ~~5 and 6.~~

~~8.1~~ *6 and 7.*

9. The Commission will approve an application for such a waiver only upon determining after investigation that the eligible telecommunications carrier:

(a) Would incur substantial costs to comply with the provisions of subsections ~~5 and 6;~~
6 and 7;

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

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

~~19.1~~ 10. The Commission will approve or deny an application that is filed pursuant to subsection ~~17.1~~ 8 within 30 days after receipt of the application.

~~110.1~~ 11. An eligible telecommunications carrier shall provide notice to the Eligibility Administrator within 5 business days after the date on which the eligible telecommunications carrier terminates the Lifeline service of a customer or the date on which the eligible telecommunications carrier receives from the Universal Service Administrative Company or the

National Lifeline Accountability Database an eligibility determination that is inconsistent with the eligibility determination made by the Eligibility Administrator. The eligible telecommunications carrier is not required to include in the notice the reason for the termination unless Lifeline service has been terminated as a result of information provided to the eligible telecommunications carrier by the Universal Service Administrative Company or the National Lifeline Accountability Database.

~~1111~~ 12. If there is an inconsistency between the eligibility determination made by the Eligibility Administrator and the eligibility determination made by the Universal Service Administrative Company or the National Lifeline Accountability Database, the eligibility determination made by the Universal Service Administrative Company or the National Lifeline Accountability Database controls.