

IOWA UTILITIES BOARD

IN RE:

EXECUTIVE ORDER 10 — REVIEW OF
UNIVERSAL SERVICE RULES [199
IOWA ADMINISTRATIVE CODE
CHAPTER 39]

DOCKET NO. RMU-2023-0039

ORDER OPENING DOCKET AND SETTING TECHNICAL CONFERENCE AND COMMENT DEADLINE

On January 10, 2023, Gov. Kim Reynolds issued Executive Order Number 10 (Executive Order), which put a moratorium on agency rulemaking and directed agencies, including the Utilities Board (Board), to engage in a comprehensive evaluation of existing rules. The goals of the Executive Order include increasing public input in the rulemaking process, eliminating rules that do not provide substantial benefits to Iowans, reducing the page and word count of the Iowa Administrative Code, and reducing restrictive rule language. As a part of the comprehensive review, agencies are required to repeal each rules chapter and evaluate whether the chapter, or a portion of the chapter, should be re-promulgated. To assist agencies in performing their comprehensive reviews, the Iowa Department of Management developed and published forms and processes. See <https://dom.iowa.gov/red-tape-review> (last accessed on March 26, 2024).

Pursuant to the Executive Order, the Board is conducting comprehensive reviews of each chapter of its administrative rules, and the Board will open the above-captioned docket for purposes of conducting a comprehensive review of chapter 39, which

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contains the Board's universal service rules. Attached to this order as Attachment A is the Board's retrospective analysis (Red Tape Review Rule Report) of chapter 39, which the Board will publish on the Board's website, iub.iowa.gov, as required by section III.B of the Executive Order. Attached to this order as Attachment B is the Board's draft Regulatory Analysis of chapter 39, which the Board will submit in the legislative Rules Management System for publication in the Iowa Administrative Bulletin and may contain changes from the version attached to this order. Finally, attached to this order as Attachment C is a draft version of chapter 39 that the Board is evaluating whether to re-promulgate. Most of the current proposed changes to chapter 39 center on the removal of unnecessary and restrictive language.

The Board also will schedule a technical conference for June 11, 2024. The technical conference will be led by Board staff, and participation may occur in person or by webinar. The purpose of the technical conference is to receive comments regarding the draft Regulatory Analysis and the proposed version of chapter 39 to be re-promulgated. Additionally, the Board will accept written comments through June 11, 2024, concerning the draft Regulatory Analysis and the proposed re-promulgated version of chapter 39. The Board will use the oral and written comments received to prepare a final version of the Regulatory Analysis, which will be uploaded in this docket and published on the Board's website.

IT IS THEREFORE ORDERED:

1. Docket No. RMU-2023-0039 is opened for the purpose of conducting a comprehensive review of 199 Iowa Administrative Code chapter 39 pursuant to Executive Order Number 10.

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2. A technical conference is set for 9 a.m. June 11, 2024, in the Utilities Board hearing room, located at 1375 East Court Avenue, Des Moines, Iowa. Interested persons may appear in person or by webinar. Information for attending by webinar can be found on the Utilities Board's website on the Hearing and Meeting Calendar webpage.

3. Comments regarding the draft Regulatory Analysis or the proposed re-promulgated version of chapter 39 shall be filed by June 11, 2024.

UTILITIES BOARD

Erik M. Helland Date: 2024.04.09
13:28:02 -05'00'

Joshua Byrnes Date: 2024.04.09
12:33:20 -05'00'

ATTEST:

Keetah A Horras Date: 2024.04.09
13:38:57 -05'00'

Sarah Martz Date: 2024.04.09
09:03:54 -05'00'

Dated at Des Moines, Iowa, this 9th day of April, 2024.

Red Tape Review Rule Report (Due: September 1, 2025)

Department Name:	Iowa Utilities Board	Date:	3/26/24	Total Rule Count:	8
IAC #:	199	Chapter/ SubChapter/ Rule(s):	39	Iowa Code Section Authorizing Rule:	17A.4, 476.2, 476.15, 476.102
Contact Name:	Ross Carpenter	Email:	Ross.carpenter@iub.iowa.gov	Phone:	5157257319

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of chapter 39 is to provide regulation over telecommunications carriers eligible to receive support from the federal universal service fund due to the carrier’s involvement in providing universal telecommunications service.

Is the benefit being achieved? Please provide evidence.

Yes. This chapter provides a road-map for carriers to follow in pursuit of providing universal service in qualified areas. This chapter is intended to implement and enforce Iowa code and provide cohesive guidance provided by the federal government and regulators.

What are the costs incurred by the public to comply with the rule?

There is no cost incurred by the public.

What are the costs to the agency or any other agency to implement/enforce the rule?

There are no additional costs to the agency beyond the salary of the employees who review compliance with the chapter.

Do the costs justify the benefits achieved? Please explain.

Yes. The federal government has delegated the power to regulate and implement universal service to the states and therefore the costs are necessary for the state of Iowa to maintain this power.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The chapter provides the guidelines necessary for carriers to participate in the service and what causes a carrier to be eligible to partake in the service. Because of this, there is not a less restrictive alternative that would properly provide carriers with adequate information to partake in the universal service program.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Revised rule numbers 39.1, 39.2, 39.3, 39.4, 39.5, 39.6, 39.7, and 39.8 to remove restrictive language and to update outdated language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None at this time.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 39
UNIVERSAL SERVICE

199—39.1(476) Authority and purpose. These rules relate to the board’s designation of common carriers as eligible to receive support from the federal universal service fund and are prescribed by the board pursuant to Iowa Code sections 17A.4, 476.2, 476.15, and 476.102 and 47 U.S.C. §§ 214(e) and 254. These rules are intended to preserve and advance universal service by implementing the board’s authority to designate eligible telecommunications carriers (ETCs). These rules establish procedures for applying for designation as an ETC, as well as modifying and relinquishing such designation; adopt service standards for ETCs; and establish state record, certification, and reporting requirements consistent with federal requirements.

199—39.2(476) Definitions. For the purposes of the board’s implementation of federal universal service fund requirements, the following definitions apply. Whenever a reference in this chapter is made to provisions found in 47 CFR Part 36, 51, or 54, that reference includes any amendment through February 20, 2019.

“*Broadband service*” means the broadband Internet access service (defined at 47 CFR § 54.400(l)) designated by the Federal Communications Commission (FCC) at 47 CFR § 54.101 as eligible for support by the federal universal service support mechanisms.

“*Competitive eligible telecommunications carrier*” means a carrier that meets the definition of an “eligible telecommunications carrier” below and does not meet the definition of an “incumbent local exchange carrier” in 47 CFR § 51.5.

“*Common carrier*” means the same as is defined at 47 U.S.C. 153(11).

“*Eligible telecommunications carrier,*” “*eligible carrier,*” or “*ETC*” means a carrier designated by the board as eligible to receive universal service support pursuant to 47 U.S.C. § 214(e).

“*Facilities*” means any physical components of the telecommunications network that are used in the transmission or routing of the services designated for universal service fund support, as expressed at 47 CFR § 54.201(e).

“*High-cost support*” means the same as defined at 47 CFR Subchapter B, Part 54 to include those support mechanisms provided pursuant to: subpart D (universal service support for high cost areas); subpart J (rural digital opportunity fund support); subpart K (interstate common line support); subpart L (mobility fund support); subpart M (high-cost loop support); and subpart O (Uniendo a Puerto Rico Fund).

“*Lifeline program*” means the federal universal service program providing support for low-income consumers that is defined in 47 CFR § 54.401.

“*Services designated for support*” means voice telephone service and broadband service.

“*Tribal Link Up*” means an assistance program for eligible residents of tribal lands seeking telecommunications service from a telecommunications carrier that is defined in 47 CFR § 54.413(a).

“*Voice telephony service*” means the service (defined at 47 CFR § 54.400(m)) designated by the FCC at 47 CFR § 54.101 as eligible for support by the federal universal service support mechanisms.

199—39.3(476) Applying for designation as an eligible telecommunications carrier.

39.3(1) A common carrier must be designated as an ETC to qualify for support from the federal universal service fund. The board reviews applications for designation as an ETC for compliance with 47 U.S.C. § 214(e)(1) and grants ETC designations to qualified applicants for a service area designated by the board. If an applicant requests an expedited ruling from the board on an application to be designated as an ETC or on an amendment to an existing ETC designation, the applicant shall specify why an expedited process is necessary and why an expedited review would not be contrary to the public interest.

39.3(2) An application for an ETC designation must contain the following:

- a.* Where an applicant offers more than one type of communications service, a clear statement of which entity is requesting the designation.
- b.* A clear statement of the purposes for which the designation is sought, and a statement of financial and technical qualification to provide the supported service. An applicant shall specify whether designation is sought for purposes of receiving support from the high-cost fund or mobility fund; for Lifeline purposes only; or other specified purpose recognized by the FCC.
- c.* A certification that the applicant offers or intends to offer all services designated for support, as identified in 47 CFR § 54.101, throughout the applicant's approved service area.
- d.* An explanation of how the carrier will provide voice telephony service and broadband service.
- e.* A certification that the applicant offers or intends to offer the supported services either using its own facilities or a combination of its own facilities and resale of another carrier's services. "Own facilities" includes unbundled network elements, in whole or in part. The facilities providing the services supported by the universal service fund need not be physically located in the area served. Wireless resellers shall provide the name of the facilities-based wireless carrier(s) whose services they are reselling and demonstrate they have an agreement with the carrier(s) in Iowa that will cover the applicant's proposed designated service area. The board will not designate as an eligible telecommunications carrier a carrier that offers the services supported by federal universal service support mechanisms exclusively through the resale of another carrier's services, unless the carrier obtains FCC approval of a compliance plan and commits to certain 911 conditions.
- f.* A description of how the applicant advertises the availability of supported services and the charges therefor using media of general distribution.
- g.* A detailed description, including a map or maps, of the geographic service area for which the applicant requests an ETC designation from the board. An applicant seeking designation in connection with the connect America fund Phase II auction or other similar conditional support mechanism shall file a list of the census blocks in which the applicant will serve as an ETC, in addition to the map included with the description required by this paragraph. Wireless telecommunications carriers, defined as commercial mobile radio service providers in 47 CFR Parts 20 and 24, shall file coverage area maps and maps that depict signal strength. Requests to withhold from public inspection maps depicting signal strength will be deemed granted as provided in 199—Chapter 1, "Public information and inspection of records."
- h.* Where the application is from a carrier seeking a designation as an ETC for an area served by a rural telephone company as defined in 47 CFR § 51.5, a demonstration that the requested designation is in the public interest.
- i.* An affirmative statement that the applicant will use the support only for the provision, maintenance, and upgrading of facilities to deploy, improve, and support services to consumers in the applicant's designated service area. Applicants seeking designation only for purposes of receiving support from the Lifeline program need not include an affirmative statement or other information concerning network improvements planned for the designated service area.
- j.* An affirmative statement explaining how the applicant will remain functional in emergency situations. The statement shall include examples illustrating that the applicant has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.
- k.* A certification that the applicant will comply with the service requirements applicable to the support that it seeks to receive.
- l.* A certification that the applicant will contribute to the dual party relay service, as provided in Iowa Code section 447C.7(1).
- m.* For applications from carriers seeking designation as an ETC for any part of tribal lands, the applicant shall provide a copy of its application to the affected tribal government and tribal regulatory authority at the time it files the application with the board.
- n.* A certification that the applicant will satisfy applicable consumer protection and service quality standards. Wireless ETC applicants shall commit to complying with the consumer protection standards established by the Cellular

Telecommunications and Internet Association's Consumer Code for Wireless Service, including a certification to abide by the following specified standards:

(1) Provide ready access to customer service. Customers will be provided a toll-free telephone number to access a carrier's customer service during normal business hours. Customer service contact information will be provided to customers online and on billing statements. Each wireless carrier will provide information about how customers can contact the carrier in writing, by toll-free telephone number, via the Internet, or otherwise with any inquiries or complaints, and this information will be included, at a minimum, on all billing statements, in written responses to customer inquiries, and on carriers' websites. Each carrier will also make such contact information available, upon request, to any customer calling the carrier's customer service departments.

(2) Promptly respond to consumer inquiries and complaints received from government agencies. Inquiries for information or complaints to a wireless ETC shall be resolved promptly and courteously. If a wireless ETC cannot resolve a dispute with the applicant or customer, the wireless ETC shall inform the applicant or customer of the right to file a complaint with the board. The wireless ETC shall provide the following board address and toll-free telephone number: Iowa Utilities Board, Customer Service, 1375 E. Court Avenue, Des Moines, Iowa 50319-0069; 877.565.4450. When the board receives a complaint, the board shall follow the procedures set out in 199—Chapter 6. In any complaint proceeding pursuant to this subparagraph, if the wireless ETC asserts that the complainant is located in an area where the wireless ETC is not designated as an ETC, the wireless ETC must submit evidence in support of its assertion.

39.3(3) Amendments, assignments and transfers of control. Except as otherwise provided in this subrule, a carrier's ETC designation may be amended or assigned, or control of such designation may be transferred by the transfer of control of the carrier, whether voluntarily or involuntarily, directly or indirectly, only upon application to and prior approval by the board.

a. Assignment. For purposes of this subrule, an assignment of a designation is a transaction in which a board-issued ETC designation is assigned from one carrier to another carrier. Following an assignment, the designation is held by a carrier other than the carrier to which it was originally granted.

b. Transfers of control. For purposes of this subrule, a transfer of control is a transaction in which a board-issued designation remains held by the same carrier, but there is a change in the individuals or entities that control the carrier. A change from less than 50 percent ownership to 50 percent or more ownership shall always be considered a transfer of control. A change from 50 percent or more ownership to less than 50 percent ownership shall always be considered a transfer of control. In all other situations, whether the interest being transferred is controlling must be determined on a case-by-case basis. The factors relevant to a determination of control in addition to equity ownership include, but are not limited to, the following:

- (1) Power to constitute or appoint more than 50 percent of the board of directors or partnership management committee;
- (2) Authority to appoint, promote, demote, and fire senior executives who control the day-to-day activities of the carrier;
- (3) Ability to play an integral role in major management decisions of the carrier;
- (4) Authority to pay financial obligations, including expenses arising out of operations;
- (5) Ability to receive moneys and profits from the carrier's operations; and
- (6) Unfettered use of all of the carrier's facilities and equipment.

c. Pro forma assignments and transfers of control. Assignments or transfers of control that do not result in a change in the actual controlling party are considered nonsubstantial or pro forma. If a transaction is one of the types listed below, the transaction is presumptively pro forma and prior board approval need not be sought:

- (1) Assignment from an individual or individuals to an entity owned and controlled by such individuals without any substantial change in their relative interests;
- (2) Assignment from an entity to its individual equity holders without effecting any substantial change in the disposition of their interests;
- (3) Assignment or transfer by which certain equity holders retire and the interest transferred is not a controlling one;
- (4) Entity reorganization that involves no substantial change in the beneficial ownership of the carrier (including reincorporation or reorganization in a different jurisdiction or change in form of the business entity);
- (5) Assignment or transfer from a carrier to a wholly owned direct or indirect subsidiary thereof or vice versa, or where there is an assignment from a carrier to an entity owned or controlled by the same equity holders without substantial change in their interests; or
- (6) Assignment of less than a controlling interest in a carrier.

d. Applications for substantial transactions. In the case of an assignment or transfer of control of board-designated ETC that is not pro forma, the parties to such a transaction must file a joint application with the board prior to consummation of the proposed assignment or transfer of control. The application shall include the following information:

- (1) A brief narrative of the means by which the proposed transfer or assignment will take place. This narrative should include a statement concerning how the transaction will be classified for the purposes of any filings required to be made by the parties with the Universal Service Administrative Company (USAC).
- (2) Identification of each applicant, including the legal name and state or other governmental authority under the laws of which each entity applicant is incorporated or organized.
- (3) The name, title, mailing address, telephone number, and email contact information for each applicant.
- (4) The name, title, mailing address, telephone number, and email contact information for an application contact point, such as an executive officer, legal counsel, or regulatory consultant, to whom correspondence concerning the application should be addressed.
- (5) A statement identifying the date on which the applicants are asking for the transfer of the ETC designation to be effective. Where the timing of a transaction is dependent on facts objectively ascertainable outside of the filing (i.e., regulatory, lender, or other third-party approval), the parties should include a statement concerning the manner in which such facts will operate on the effective date or other terms of the transaction.
- (6) A certification as to whether the assignee/transferee is a board-designated ETC. If the assignee/transferee is not a board-designated ETC, the assignee/transferee shall separately file with the board an application for designation as an ETC as provided in subrule 39.3(2). If the assignee/transferee is a board-designated ETC, the joint application shall include a certification from the assignee/transferee that (a) the assignee/transferee is a board-designated ETC in good standing and (b) the assignee/transferee will comply with the state and federal requirements for eligibility as an ETC, including the use of support to provide designated services within the assigned or transferred service area.
- (7) Whether as part of the transaction, the assignor/transferor is requesting to relinquish its ETC status in whole or in part. If the assignor/transferor is requesting to relinquish its ETC status, the joint application shall be deemed to be the assignor/transferor's request for relinquishment of ETC designation under 199—39.8(476); provided that such relinquishment shall be conditioned on consummation of the transaction described in the application. If the assignor/transferor is for any reason seeking the unconditional relinquishment of its ETC status, such request should be filed separately under 199—39.8(476).

e. Board approval. Where an assignment or transfer of control involves a transferee/assignee that is already a board-designated ETC, such application shall be granted by the board 30 days after the date the complete application seeking approval of the assignment or transfer of control is accepted for filing, unless the board, for good cause, docket the application for further investigation. Where an assignment or transfer of control involves a transferee/assignee that is not already a board-designated ETC, such application shall be granted by the board at the same time as the board grants the assignee/transferee's application for ETC designation in accordance with the timelines and procedures set forth in subrule 39.3(2).

f. Notification of pro forma transactions. In the case of a pro forma assignment or transfer of control, the designated ETC is not required to seek prior board approval. Instead, a pro forma assignee or a carrier that is subject to a pro forma transfer of control must file a notification with the board no later than 30 days after the assignment or transfer is completed. The notification must contain the following:

- (1) The information requested in subparagraphs 39.3(3) "d"(1) through (4) for the transferee/assignee.
- (2) A certification that the transfer of control or assignment was pro forma and that, together with all previous pro forma transactions, the transfer of control or assignment does not result in a change in the actual control of the carrier.
- (3) A certification from the assignee/transferee that the assignee/transferee will comply with the state and federal requirements for eligibility as an ETC, including the use of support to provide designated services within the assigned or transferred service area.

g. Involuntary assignments or transfers of control. In the case of an involuntary assignment or transfer of control to a bankruptcy trustee appointed under involuntary bankruptcy; to an independent receiver appointed by a court of competent jurisdiction in a foreclosure action; or in the case of death or legal disability, to a person or entity legally qualified to succeed the deceased or disabled person under the laws of the place having jurisdiction over the estate involved, the applicant must make the appropriate filing no later than 30 days after the event causing the involuntary assignment or transfer of control.

h. Notification of consummation. An assignee or transferee must notify the board no later than 30 days after either consummation of the proposed assignment or transfer of control or a decision not to consummate the proposed assignment or

transfer of control. The notification shall identify the docket number(s) under which the authorization of the assignment or transfer of control was granted.

i. Amendments other than transactions. Where a carrier that has been designated by the board as an ETC intends to serve as an ETC in a new service area for the purpose of receiving federal high-cost support, the carrier shall file a request to amend its designation with a notice of expansion at least 30 days in advance of the expansion and shall certify that the carrier intends to amend its designation to serve as an ETC in the expanded service area.

199—39.4(476) Lifeline-only applicants. Where an applicant is seeking designation only for purposes of receiving support from the Lifeline program, the following requirements apply in addition to those specified in 199—39.3(476):

39.4(1) *Approved compliance plan required.* The applicant shall submit a copy of a compliance plan submitted to the FCC and a copy of the Commission’s notice of approval. An applicant offering service utilizing its own facilities or a combination of its own facilities and the resale of another carrier’s facilities need not provide a compliance plan.

39.4(2) *Terms and conditions of voice telephony service offered to Lifeline subscribers.* The applicant shall submit information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for such plan. To the extent the applicant offers to Lifeline subscribers plans that are generally available to the public, the applicant may provide summary information regarding such plans, such as a link to a public website outlining the terms and conditions of such plans.

39.4(3) *Terms and conditions of broadband internet access service offered to Lifeline subscribers.* The applicant shall submit information describing the terms and conditions of any broadband internet access service plans offered to Lifeline subscribers, including details on the speeds offered, data usage allotments, additional charges for particular uses, if any, and rates for each such plan. To the extent the applicant offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding those plans, such as a link to a public website outlining the terms and conditions of the plans.

39.4(4) *Demonstration of financial and technical capability to provide supported services.* The applicant shall demonstrate that it is financially and technically capable of providing the supported Lifeline service in compliance with 47 CFR Subchapter B, Part 54, Subpart E, as required by 47 CFR § 54.201(h). Relevant considerations include, but are not limited to, how long the carrier has been in business, whether the applicant intends to rely exclusively on universal service fund disbursements to operate, whether the applicant receives or will receive revenue from other sources, whether the applicant has been subject to enforcement action or ETC revocation proceedings in any state, and whether the applicant has defaulted on previous universal service fund commitments.

199—39.5(476) Service area.

39.5(1) Unless otherwise ordered by the board, the approved service area for universal service fund support calculations will be the same as the service area currently approved for local service by the board. Those carriers not currently approved to provide local service are required to provide documentation showing their service area.

39.5(2) In the case of a service area served by a rural telephone company, “service area” means such company’s “study area” unless and until the FCC and the states, after taking into account recommendations of a federal-state joint board instituted under 47 U.S.C. § 410(c), establish a different definition of service area for such company.

39.5(3) In the case of a wireless telecommunications carrier, “service area” means that area where the wireless company has been licensed by the FCC to provide service.

199—39.6(476) Universal service support for low-income consumers (Lifeline program and Tribal Link Up program).

39.6(1) *Carrier obligation to offer Lifeline.* Pursuant to 47 CFR § 54.405, all ETCs must make Lifeline service available, as defined in 47 CFR § 54.401, to qualifying low-income consumers, defined as consumers who meet the qualifications for Lifeline as specified in 47 CFR § 54.409. ETCs must comply with the minimum service standards specified in 47 CFR § 54.408.

39.6(2) *Customer notification.* ETCs shall include a description of their Lifeline offerings or discounts in their residential service agreements. ETCs shall provide the board with information about their residential service agreements upon request. ETCs shall publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for service as required by 47 CFR § 54.405(b).

39.6(3) *Consumer qualification for Lifeline.* To qualify for Lifeline, a consumer must meet the qualifications for Lifeline as specified in 47 CFR § 54.409. A consumer may only receive one Lifeline service per household.

39.6(4) Determination of subscriber eligibility. ETCs shall ensure that their Lifeline subscribers are eligible to receive Lifeline services in accordance with 47 CFR § 54.410. Eligible telecommunications carriers shall:

a. Implement policies and procedures for ensuring that their Lifeline subscribers are eligible to receive Lifeline services;

b. Confirm a subscriber's income-based or program-based eligibility according to 47 CFR § 54.410(b) or (c);

c. Provide prospective subscribers Lifeline certification forms that comply with 47 CFR § 54.410(d); and

d. Recertify all subscribers' Lifeline eligibility in accordance with 47 CFR § 54.410(f) and (g).

39.6(5) Annual certifications by eligible telecommunications carriers. ETCs shall make and submit to the USAC annual certifications relating to the Lifeline program as required by 47 CFR § 54.416. ETCs shall file their annual Lifeline certifications with the board as provided in paragraph 39.7(1) "a" and, if applicable, with the relevant tribal governments.

39.6(6) Tribal Link Up. A telecommunications carrier receiving high-cost support on tribal lands that is offering the Tribal Link Up assistance program to eligible residents of tribal lands, as defined in 47 CFR § 54.400(e), must provide (1) a 100 percent reduction of the customary connection charge for commencing service at a subscriber's residence, and (2) a deferred schedule of interest-free payments for the connection charge, pursuant to 47 CFR § 54.413. Prior to enrolling an eligible resident of tribal lands in the Tribal Link Up program, an ETC must obtain from the resident a certification form that complies with 47 CFR § 54.410.

39.6(7) Audits. ETCs shall file with the board finalized reports of audits involving the audited ETC's operations in Iowa conducted pursuant to 47 CFR § 54.420 requiring low-income program audits. The audit reports will not be considered or deemed confidential. The audit reports shall be filed with the board within 30 days of issuance of the final audit report.

199—39.7(476) Annual reporting requirements.

39.7(1) Annual certifications from carriers seeking to continue to receive high-cost support. Any carrier seeking to continue to receive federal high-cost support shall file with the board no later than July 1 of each year an affidavit titled "Certification of [Company Name]." The company name shall be the name used on the carrier's initial application for ETC designation and its current name, if its name has changed.

a. Contents of affidavit:

(1) The affidavit shall include the study area code (SAC) number associated with the company, as well as the carrier's Company Number (CoNo) as granted by the Iowa Utilities Board.

(2) The affidavit shall be sworn and notarized and shall be executed by an authorized corporate officer.

(3) The affidavit shall certify that the carrier has used all federal high-cost support provided in the preceding calendar year and will use all federal high-cost support provided to the carrier in the coming calendar year received pursuant to 47 CFR Subchapter B, Part 54, Subparts D, J, K, L, M, and O as defined in 47 CFR § 54.5, only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

(4) The affidavit shall certify to the following: as an eligible telecommunications carrier, the carrier agrees to provide timely responses to board requests for information related to the status of local markets for supported services, including local markets for supported voice and broadband services.

b. Any certification filed by a carrier shall be subject to complaint or investigation by the board.

c. An ETC's certification shall be the basis of the board's certification to the FCC and USAC pursuant to 47 CFR § 54.314 that the ETC has used and will use the support for the purposes intended.

39.7(2) Filing instructions. The affidavit certifying compliance shall be filed using the board's electronic filing system in accordance with 199—Chapter 14, unless the board directs otherwise by order issued in advance of the filing deadline. The filing shall be titled "Annual Eligible Telecommunications Carrier Reporting Requirements," with a reference to the year for which the report is filed. The document title for the affidavit certifying compliance shall be "Carrier Certification."

199—39.8(476) Relinquishment of ETC designation.

39.8(1) The board may permit an ETC to relinquish its designation as such a carrier in any area served by more than one ETC. An ETC that seeks to relinquish its designation for an area served by more than one ETC shall give 30 days' advance notice to the board of such relinquishment. A carrier that is granted ETC status in connection with a federal universal support program but that ultimately does not receive the support shall, within 30 days after the FCC issues a public notice regarding

ATTACHMENT A

the award of support, file a notice of relinquishment of the carrier’s designation for any service areas where the carrier is not awarded funds and does not plan to offer service.

39.8(2) Prior to permitting a telecommunications carrier designated as an ETC to cease providing universal service in an area served by more than one ETC, the board shall require the remaining ETCs to ensure that all customers served by the relinquishing carrier will continue to be served and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining ETC. The board shall establish a time, not to exceed one year after the board approves such relinquishment under this rule, within which such purchase or construction shall be completed.

These rules are intended to implement Iowa Code sections 17A.4, 476.2, 476.15, and 476.102 and 47 U.S.C. Section 214(e) and 254.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	2887
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	29

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No.

Draft Regulatory Analysis

TEXT BOXES WILL EXPAND AS YOU TYPE

Agency Name Utilities Board Rule # 199 IAC Chapter 39

Iowa Code Section Authorizing Rule Iowa Code sections 17A.4, 476.2, 476.15, 476.102

State or Federal Law(s) Implemented by the Rule Iowa Code sections 17A.4, 476.2, 476.15, 476.102, and 47 U.S.C. §§ 214(e) and 254

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

Date/Time: 6/ 11/ 2024 9:00 a.m.

Location: Iowa Utilities Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa

Any interested person may submit written comments concerning this regulatory analysis. Written comments in response to this regulatory analysis must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Contact Name

IT Support

Address

Iowa Utilities Board

Email and/or phone number

Phone: 515-725-7300 Email: ITsupport@iub.iowa.gov

Purpose and summary of proposed rule:

The purpose of chapter 39 is to provide regulation over telecommunications carriers eligible to receive support from the federal universal service fund due to the carrier’s involvement in providing universal telecommunications service.

Analysis of Impact of Proposed Rule

1. Persons affected by the proposed rule

- Classes of persons that will bear the costs of the proposed rule:

Carriers providing universal service will bear the costs of the proposed rules.

- Classes of persons that will benefit from the proposed rule:

Those that utilize universal service will benefit from the proposed rules.

2. Impact of the proposed rule, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred

- Quantitative description of impact:

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The only economic impact to the Board is that of the salaries paid to employees that work on reviewing carriers' filings that provide universal service. The carrier would have costs related to the filing requirements, such as staff to prepare the filing and answer any questions related to such a filing.

- Qualitative description of impact:

This chapter ensures carriers are properly designated as an eligible telecommunications carrier and provides such carriers with access to universal service funds as necessary.

3. Costs to the state

- Implementation and enforcement costs borne by the agency or any other agency:

The only cost to the Board is the cost of daily operation of the Board and the salary of employees working in this specific area. There are no additional costs to other agencies.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rule to the costs and benefits of inaction

There is a benefit in ensuring universal service is provided to areas of the state that would otherwise not have access to necessary services. There are minimal costs involved in administering this rule. Inaction by the state would likely lead to federal government regulators regulating this area of the industry.

5. Determination if less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule

The Board does not believe there are any less costly methods of addressing the purpose of this chapter

6. Alternative methods considered by the agency

- Description of any alternative methods that were seriously considered by the agency:

The Board considered inaction as an alternative method.

- Reasons why they were rejected in favor of the proposed rule:

Inaction is not feasible as the implementation of universal service has been delegated to the state.

Small Business Impact

If the rule will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rule on small business:

- Establish less stringent compliance or reporting requirements in the rule for small business.

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- Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small business.
- Consolidate or simplify the rule’s compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rule for small business.
- Exempt small business from any or all requirements of the rule.

If legal and feasible, how does the rule use a method discussed above to reduce the substantial impact on small business?

There is not a substantial impact on small businesses.

Text of Proposed Rule:

CHAPTER 39
UNIVERSAL SERVICE

199—39.1(476) Authority and purpose. These rules relate to the board’s designation of common carriers as eligible to receive support from the federal universal service fund and are prescribed by the board pursuant to Iowa Code sections 17A.4, 476.2, 476.15, and 476.102 and 47 U.S.C. §§ 214(e) and 254. These rules are intended to preserve and advance universal service by implementing the board’s authority to designate eligible telecommunications carriers (ETCs). These rules establish procedures for applying for designation as an ETC, as well as modifying and relinquishing such designation; adopt service standards for ETCs; and establish state record, certification, and reporting requirements consistent with federal requirements.

199—39.2(476) Definitions. For the purposes of the board’s implementation of federal universal service fund requirements, the following definitions apply. Whenever a reference in this chapter is made to provisions found in 47 CFR Part 36, 51, or 54, that reference includes any amendment through February 20, 2019.

“*Broadband service*” means the broadband Internet access service (defined at 47 CFR § 54.400(l)) designated by the Federal Communications Commission (FCC) at 47 CFR § 54.101 as eligible for support by the federal universal service support mechanisms.

“*Competitive eligible telecommunications carrier*” means a carrier that meets the definition of an “eligible telecommunications carrier” below and does not meet the definition of an “incumbent local exchange carrier” in 47 CFR § 51.5.

“*Common carrier*” means the same as is defined at 47 U.S.C. 153(11).

“*Eligible telecommunications carrier,*” “*eligible carrier,*” or “*ETC*” means a carrier designated by the board as eligible to receive universal service support pursuant to 47 U.S.C. § 214(e).

“*Facilities*” means any physical components of the telecommunications network that are used in the transmission or routing of the services designated for universal service fund support, as expressed at 47 CFR § 54.201(e).

“*High-cost support*” means the same as defined at 47 CFR Subchapter B, Part 54 to include those support mechanisms provided pursuant to: subpart D (universal service support for high cost areas); subpart J (rural digital opportunity fund support); subpart K (interstate common line support); subpart L (mobility fund support); subpart M (high-cost loop support); and subpart O (Uniendo a Puerto Rico Fund).

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“Lifeline program” means the federal universal service program providing support for low-income consumers that is defined in 47 CFR § 54.401.

“Services designated for support” means voice telephone service and broadband service.

“Tribal Link Up” means an assistance program for eligible residents of tribal lands seeking telecommunications service from a telecommunications carrier that is defined in 47 CFR § 54.413(a).

“Voice telephony service” means the service (defined at 47 CFR § 54.400(m)) designated by the FCC at 47 CFR § 54.101 as eligible for support by the federal universal service support mechanisms.

199—39.3(476) Applying for designation as an eligible telecommunications carrier.

39.3(1) A common carrier must be designated as an ETC to qualify for support from the federal universal service fund. The board reviews applications for designation as an ETC for compliance with 47 U.S.C. § 214(e)(1) and grants ETC designations to qualified applicants for a service area designated by the board. If an applicant requests an expedited ruling from the board on an application to be designated as an ETC or on an amendment to an existing ETC designation, the applicant shall specify why an expedited process is necessary and why an expedited review would not be contrary to the public interest.

39.3(2) An application for an ETC designation must contain the following:

- a. Where an applicant offers more than one type of communications service, a clear statement of which entity is requesting the designation.
- b. A clear statement of the purposes for which the designation is sought, and a statement of financial and technical qualification to provide the supported service. An applicant shall specify whether designation is sought for purposes of receiving support from the high-cost fund or mobility fund; for Lifeline purposes only; or other specified purpose recognized by the FCC.
- c. A certification that the applicant offers or intends to offer all services designated for support, as identified in 47 CFR § 54.101, throughout the applicant’s approved service area.
- d. An explanation of how the carrier will provide voice telephony service and broadband service.
- e. A certification that the applicant offers or intends to offer the supported services either using its own facilities or a combination of its own facilities and resale of another carrier’s services. “Own facilities” includes unbundled network elements, in whole or in part. The facilities providing the services supported by the universal service fund need not be physically located in the area served. Wireless resellers shall provide the name of the facilities-based wireless carrier(s) whose services they are reselling and demonstrate they have an agreement with the carrier(s) in Iowa that will cover the applicant’s proposed designated service area. The board will not designate as an eligible telecommunications carrier a carrier that offers the services supported by federal universal service support mechanisms exclusively through the resale of another carrier’s services, unless the carrier obtains FCC approval of a compliance plan and commits to certain 911 conditions.
- f. A description of how the applicant advertises the availability of supported services and the charges therefor using media of general distribution.
- g. A detailed description, including a map or maps, of the geographic service area for which the applicant requests an ETC designation from the board. An applicant seeking designation in connection with the connect America fund Phase II auction or other similar conditional support mechanism shall file a list of the census blocks in which the applicant will serve as an ETC, in addition to the map included with the description required by this paragraph. Wireless telecommunications carriers, defined as commercial mobile radio service providers in 47 CFR Parts 20 and 24, shall file coverage area maps and maps that depict signal strength. Requests to withhold from public inspection maps depicting signal strength will be deemed granted as provided in 199—Chapter 1, “Public information and inspection of records.”
- h. Where the application is from a carrier seeking a designation as an ETC for an area served by a rural telephone company as defined in 47 CFR § 51.5, a demonstration that the requested designation is in the public interest.
- i. An affirmative statement that the applicant will use the support only for the provision, maintenance, and upgrading of facilities to deploy, improve, and support services to consumers in the applicant’s

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designated service area. Applicants seeking designation only for purposes of receiving support from the Lifeline program need not include an affirmative statement or other information concerning network improvements planned for the designated service area.

j. An affirmative statement explaining how the applicant will remain functional in emergency situations. The statement shall include examples illustrating that the applicant has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

k. A certification that the applicant will comply with the service requirements applicable to the support that it seeks to receive.

l. A certification that the applicant will contribute to the dual party relay service, as provided in Iowa Code section 447C.7(1).

m. For applications from carriers seeking designation as an ETC for any part of tribal lands, the applicant shall provide a copy of its application to the affected tribal government and tribal regulatory authority at the time it files the application with the board.

n. A certification that the applicant will satisfy applicable consumer protection and service quality standards. Wireless ETC applicants shall commit to complying with the consumer protection standards established by the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service, including a certification to abide by the following specified standards:

(1) Provide ready access to customer service. Customers will be provided a toll-free telephone number to access a carrier's customer service during normal business hours. Customer service contact information will be provided to customers online and on billing statements. Each wireless carrier will provide information about how customers can contact the carrier in writing, by toll-free telephone number, via the Internet, or otherwise with any inquiries or complaints, and this information will be included, at a minimum, on all billing statements, in written responses to customer inquiries, and on carriers' websites. Each carrier will also make such contact information available, upon request, to any customer calling the carrier's customer service departments.

(2) Promptly respond to consumer inquiries and complaints received from government agencies. Inquiries for information or complaints to a wireless ETC shall be resolved promptly and courteously. If a wireless ETC cannot resolve a dispute with the applicant or customer, the wireless ETC shall inform the applicant or customer of the right to file a complaint with the board. The wireless ETC shall provide the following board address and toll-free telephone number: Iowa Utilities Board, Customer Service, 1375 E. Court Avenue, Des Moines, Iowa 50319-0069; 877.565.4450. When the board receives a complaint, the board shall follow the procedures set out in 199—Chapter 6. In any complaint proceeding pursuant to this subparagraph, if the wireless ETC asserts that the complainant is located in an area where the wireless ETC is not designated as an ETC, the wireless ETC must submit evidence in support of its assertion.

39.3(3) Amendments, assignments and transfers of control. Except as otherwise provided in this subrule, a carrier's ETC designation may be amended or assigned, or control of such designation may be transferred by the transfer of control of the carrier, whether voluntarily or involuntarily, directly or indirectly, only upon application to and prior approval by the board.

a. Assignment. For purposes of this subrule, an assignment of a designation is a transaction in which a board-issued ETC designation is assigned from one carrier to another carrier. Following an assignment, the designation is held by a carrier other than the carrier to which it was originally granted.

b. Transfers of control. For purposes of this subrule, a transfer of control is a transaction in which a board-issued designation remains held by the same carrier, but there is a change in the individuals or entities that control the carrier. A change from less than 50 percent ownership to 50 percent or more ownership shall always be considered a transfer of control. A change from 50 percent or more ownership to less than 50 percent ownership shall always be considered a transfer of control. In all other situations, whether the interest being transferred is controlling must be determined on a case-by-case basis. The factors relevant to a determination of control in addition to equity ownership include, but are not limited to, the following:

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- (1) Power to constitute or appoint more than 50 percent of the board of directors or partnership management committee;
- (2) Authority to appoint, promote, demote, and fire senior executives who control the day-to-day activities of the carrier;
- (3) Ability to play an integral role in major management decisions of the carrier;
- (4) Authority to pay financial obligations, including expenses arising out of operations;
- (5) Ability to receive moneys and profits from the carrier's operations; and
- (6) Unfettered use of all of the carrier's facilities and equipment.

c. Pro forma assignments and transfers of control. Assignments or transfers of control that do not result in a change in the actual controlling party are considered nonsubstantial or pro forma. If a transaction is one of the types listed below, the transaction is presumptively pro forma and prior board approval need not be sought:

- (1) Assignment from an individual or individuals to an entity owned and controlled by such individuals without any substantial change in their relative interests;
- (2) Assignment from an entity to its individual equity holders without effecting any substantial change in the disposition of their interests;
- (3) Assignment or transfer by which certain equity holders retire and the interest transferred is not a controlling one;
- (4) Entity reorganization that involves no substantial change in the beneficial ownership of the carrier (including reincorporation or reorganization in a different jurisdiction or change in form of the business entity);
- (5) Assignment or transfer from a carrier to a wholly owned direct or indirect subsidiary thereof or vice versa, or where there is an assignment from a carrier to an entity owned or controlled by the same equity holders without substantial change in their interests; or
- (6) Assignment of less than a controlling interest in a carrier.

d. Applications for substantial transactions. In the case of an assignment or transfer of control of board-designated ETC that is not pro forma, the parties to such a transaction must file a joint application with the board prior to consummation of the proposed assignment or transfer of control. The application shall include the following information:

- (1) A brief narrative of the means by which the proposed transfer or assignment will take place. This narrative should include a statement concerning how the transaction will be classified for the purposes of any filings required to be made by the parties with the Universal Service Administrative Company (USAC).
- (2) Identification of each applicant, including the legal name and state or other governmental authority under the laws of which each entity applicant is incorporated or organized.
- (3) The name, title, mailing address, telephone number, and email contact information for each applicant.
- (4) The name, title, mailing address, telephone number, and email contact information for an application contact point, such as an executive officer, legal counsel, or regulatory consultant, to whom correspondence concerning the application should be addressed.
- (5) A statement identifying the date on which the applicants are asking for the transfer of the ETC designation to be effective. Where the timing of a transaction is dependent on facts objectively ascertainable outside of the filing (i.e., regulatory, lender, or other third-party approval), the parties should include a statement concerning the manner in which such facts will operate on the effective date or other terms of the transaction.
- (6) A certification as to whether the assignee/transferee is a board-designated ETC. If the assignee/transferee is not a board-designated ETC, the assignee/transferee shall separately file with the board an application for designation as an ETC as provided in subrule 39.3(2). If the assignee/transferee is a board-designated ETC, the joint application shall include a certification from the assignee/transferee that (a) the assignee/transferee is a board-designated ETC in good standing and (b) the assignee/transferee will

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comply with the state and federal requirements for eligibility as an ETC, including the use of support to provide designated services within the assigned or transferred service area.

(7) Whether as part of the transaction, the assignor/transferor is requesting to relinquish its ETC status in whole or in part. If the assignor/transferor is requesting to relinquish its ETC status, the joint application shall be deemed to be the assignor/transferor's request for relinquishment of ETC designation under 199—39.8(476); provided that such relinquishment shall be conditioned on consummation of the transaction described in the application. If the assignor/transferor is for any reason seeking the unconditional relinquishment of its ETC status, such request should be filed separately under 199—39.8(476).

e. Board approval. Where an assignment or transfer of control involves a transferee/assignee that is already a board-designated ETC, such application shall be granted by the board 30 days after the date the complete application seeking approval of the assignment or transfer of control is accepted for filing, unless the board, for good cause, docket the application for further investigation. Where an assignment or transfer of control involves a transferee/assignee that is not already a board-designated ETC, such application shall be granted by the board at the same time as the board grants the assignee/transferee's application for ETC designation in accordance with the timelines and procedures set forth in subrule 39.3(2).

f. Notification of pro forma transactions. In the case of a pro forma assignment or transfer of control, the designated ETC is not required to seek prior board approval. Instead, a pro forma assignee or a carrier that is subject to a pro forma transfer of control must file a notification with the board no later than 30 days after the assignment or transfer is completed. The notification must contain the following:

- (1) The information requested in subparagraphs 39.3(3) "d"(1) through (4) for the transferee/assignee.
- (2) A certification that the transfer of control or assignment was pro forma and that, together with all previous pro forma transactions, the transfer of control or assignment does not result in a change in the actual control of the carrier.
- (3) A certification from the assignee/transferee that the assignee/transferee will comply with the state and federal requirements for eligibility as an ETC, including the use of support to provide designated services within the assigned or transferred service area.

g. Involuntary assignments or transfers of control. In the case of an involuntary assignment or transfer of control to a bankruptcy trustee appointed under involuntary bankruptcy; to an independent receiver appointed by a court of competent jurisdiction in a foreclosure action; or in the case of death or legal disability, to a person or entity legally qualified to succeed the deceased or disabled person under the laws of the place having jurisdiction over the estate involved, the applicant must make the appropriate filing no later than 30 days after the event causing the involuntary assignment or transfer of control.

h. Notification of consummation. An assignee or transferee must notify the board no later than 30 days after either consummation of the proposed assignment or transfer of control or a decision not to consummate the proposed assignment or transfer of control. The notification shall identify the docket number(s) under which the authorization of the assignment or transfer of control was granted.

i. Amendments other than transactions. Where a carrier that has been designated by the board as an ETC intends to serve as an ETC in a new service area for the purpose of receiving federal high-cost support, the carrier shall file a request to amend its designation with a notice of expansion at least 30 days in advance of the expansion and shall certify that the carrier intends to amend its designation to serve as an ETC in the expanded service area.

199—39.4(476) Lifeline-only applicants. Where an applicant is seeking designation only for purposes of receiving support from the Lifeline program, the following requirements apply in addition to those specified in 199—39.3(476):

39.4(1) Approved compliance plan required. The applicant shall submit a copy of a compliance plan submitted to the FCC and a copy of the Commission's notice of approval. An applicant offering service utilizing its own facilities or a combination of its own facilities and the resale of another carrier's facilities need not provide a compliance plan.

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39.4(2) Terms and conditions of voice telephony service offered to Lifeline subscribers. The applicant shall submit information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for such plan. To the extent the applicant offers to Lifeline subscribers plans that are generally available to the public, the applicant may provide summary information regarding such plans, such as a link to a public website outlining the terms and conditions of such plans.

39.4(3) Terms and conditions of broadband internet access service offered to Lifeline subscribers. The applicant shall submit information describing the terms and conditions of any broadband internet access service plans offered to Lifeline subscribers, including details on the speeds offered, data usage allotments, additional charges for particular uses, if any, and rates for each such plan. To the extent the applicant offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding those plans, such as a link to a public website outlining the terms and conditions of the plans.

39.4(4) Demonstration of financial and technical capability to provide supported services. The applicant shall demonstrate that it is financially and technically capable of providing the supported Lifeline service in compliance with 47 CFR Subchapter B, Part 54, Subpart E, as required by 47 CFR § 54.201(h). Relevant considerations include, but are not limited to, how long the carrier has been in business, whether the applicant intends to rely exclusively on universal service fund disbursements to operate, whether the applicant receives or will receive revenue from other sources, whether the applicant has been subject to enforcement action or ETC revocation proceedings in any state, and whether the applicant has defaulted on previous universal service fund commitments.

199—39.5(476) Service area.

39.5(1) Unless otherwise ordered by the board, the approved service area for universal service fund support calculations will be the same as the service area currently approved for local service by the board. Those carriers not currently approved to provide local service are required to provide documentation showing their service area.

39.5(2) In the case of a service area served by a rural telephone company, “service area” means such company’s “study area” unless and until the FCC and the states, after taking into account recommendations of a federal-state joint board instituted under 47 U.S.C. § 410(c), establish a different definition of service area for such company.

39.5(3) In the case of a wireless telecommunications carrier, “service area” means that area where the wireless company has been licensed by the FCC to provide service.

199—39.6(476) Universal service support for low-income consumers (Lifeline program and Tribal Link Up program).

39.6(1) Carrier obligation to offer Lifeline. Pursuant to 47 CFR § 54.405, all ETCs must make Lifeline service available, as defined in 47 CFR § 54.401, to qualifying low-income consumers, defined as consumers who meet the qualifications for Lifeline as specified in 47 CFR § 54.409. ETCs must comply with the minimum service standards specified in 47 CFR § 54.408.

39.6(2) Customer notification. ETCs shall include a description of their Lifeline offerings or discounts in their residential service agreements. ETCs shall provide the board with information about their residential service agreements upon request. ETCs shall publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for service as required by 47 CFR § 54.405(b).

39.6(3) Consumer qualification for Lifeline. To qualify for Lifeline, a consumer must meet the qualifications for Lifeline as specified in 47 CFR § 54.409. A consumer may only receive one Lifeline service per household.

39.6(4) Determination of subscriber eligibility. ETCs shall ensure that their Lifeline subscribers are eligible to receive Lifeline services in accordance with 47 CFR § 54.410. Eligible telecommunications carriers shall:

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- a. Implement policies and procedures for ensuring that their Lifeline subscribers are eligible to receive Lifeline services;
- b. Confirm a subscriber's income-based or program-based eligibility according to 47 CFR § 54.410(b) or (c);
- c. Provide prospective subscribers Lifeline certification forms that comply with 47 CFR § 54.410(d); and
- d. Recertify all subscribers' Lifeline eligibility in accordance with 47 CFR § 54.410(f) and (g).

39.6(5) Annual certifications by eligible telecommunications carriers. ETCs shall make and submit to the USAC annual certifications relating to the Lifeline program as required by 47 CFR § 54.416. ETCs shall file their annual Lifeline certifications with the board as provided in paragraph 39.7(1) "a" and, if applicable, with the relevant tribal governments.

39.6(6) Tribal Link Up. A telecommunications carrier receiving high-cost support on tribal lands that is offering the Tribal Link Up assistance program to eligible residents of tribal lands, as defined in 47 CFR § 54.400(e), must provide (1) a 100 percent reduction of the customary connection charge for commencing service at a subscriber's residence, and (2) a deferred schedule of interest-free payments for the connection charge, pursuant to 47 CFR § 54.413. Prior to enrolling an eligible resident of tribal lands in the Tribal Link Up program, an ETC must obtain from the resident a certification form that complies with 47 CFR § 54.410.

39.6(7) Audits. ETCs shall file with the board finalized reports of audits involving the audited ETC's operations in Iowa conducted pursuant to 47 CFR § 54.420 requiring low-income program audits. The audit reports will not be considered or deemed confidential. The audit reports shall be filed with the board within 30 days of issuance of the final audit report.

199—39.7(476) Annual reporting requirements.

39.7(1) Annual certifications from carriers seeking to continue to receive high-cost support. Any carrier seeking to continue to receive federal high-cost support shall file with the board no later than July 1 of each year an affidavit titled "Certification of [Company Name]." The company name shall be the name used on the carrier's initial application for ETC designation and its current name, if its name has changed.

a. Contents of affidavit:

(1) The affidavit shall include the study area code (SAC) number associated with the company, as well as the carrier's Company Number (CoNo) as granted by the Iowa Utilities Board.

(2) The affidavit shall be sworn and notarized and shall be executed by an authorized corporate officer.

(3) The affidavit shall certify that the carrier has used all federal high-cost support provided in the preceding calendar year and will use all federal high-cost support provided to the carrier in the coming calendar year received pursuant to 47 CFR Subchapter B, Part 54, Subparts D, J, K, L, M, and O as defined in 47 CFR § 54.5, only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

(4) The affidavit shall certify to the following: as an eligible telecommunications carrier, the carrier agrees to provide timely responses to board requests for information related to the status of local markets for supported services, including local markets for supported voice and broadband services.

b. Any certification filed by a carrier shall be subject to complaint or investigation by the board.

c. An ETC's certification shall be the basis of the board's certification to the FCC and USAC pursuant to 47 CFR § 54.314 that the ETC has used and will use the support for the purposes intended.

39.7(2) Filing instructions. The affidavit certifying compliance shall be filed using the board's electronic filing system in accordance with 199—Chapter 14, unless the board directs otherwise by order issued in advance of the filing deadline. The filing shall be titled "Annual Eligible Telecommunications Carrier Reporting Requirements," with a reference to the year for which the report is filed. The document title for the affidavit certifying compliance shall be "Carrier Certification."

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199—39.8(476) Relinquishment of ETC designation.

39.8(1) The board may permit an ETC to relinquish its designation as such a carrier in any area served by more than one ETC. An ETC that seeks to relinquish its designation for an area served by more than one ETC shall give 30 days' advance notice to the board of such relinquishment. A carrier that is granted ETC status in connection with a federal universal support program but that ultimately does not receive the support shall, within 30 days after the FCC issues a public notice regarding the award of support, file a notice of relinquishment of the carrier's designation for any service areas where the carrier is not awarded funds and does not plan to offer service.

39.8(2) Prior to permitting a telecommunications carrier designated as an ETC to cease providing universal service in an area served by more than one ETC, the board shall require the remaining ETCs to ensure that all customers served by the relinquishing carrier will continue to be served and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining ETC. The board shall establish a time, not to exceed one year after the board approves such relinquishment under this rule, within which such purchase or construction shall be completed.

These rules are intended to implement Iowa Code sections 17A.4, 476.2, 476.15, and 476.102 and 47 U.S.C. Section 214(e) and 254.

CHAPTER 39
UNIVERSAL SERVICE

199—39.1(476) Authority and purpose. These rules relate to the board’s designation of common carriers as eligible to receive support from the federal universal service fund and are prescribed by the board pursuant to Iowa Code sections 17A.4, 476.2, 476.15, and 476.102 and 47 U.S.C. §§ 214(e) and 254. These rules are intended to preserve and advance universal service by implementing the board’s authority to designate eligible telecommunications carriers (ETCs). These rules establish procedures for applying for designation as an ETC, as well as modifying and relinquishing such designation; adopt service standards for ETCs; and establish state record, certification, and reporting requirements consistent with federal requirements.

199—39.2(476) Definitions. For the purposes of the board’s implementation of federal universal service fund requirements, the following definitions apply. Whenever a reference in this chapter is made to provisions found in 47 CFR Part 36, 51, or 54, that reference includes any amendment through February 20, 2019.

“*Broadband service*” means the broadband Internet access service (defined at 47 CFR § 54.400(l)) designated by the Federal Communications Commission (FCC) at 47 CFR § 54.101 as eligible for support by the federal universal service support mechanisms.

“*Competitive eligible telecommunications carrier*” means a carrier that meets the definition of an “eligible telecommunications carrier” below and does not meet the definition of an “incumbent local exchange carrier” in 47 CFR § 51.5.

“*Common carrier*” means the same as is defined at 47 U.S.C. 153(11).

“*Eligible telecommunications carrier,*” “*eligible carrier,*” or “*ETC*” means a carrier designated by the board as eligible to receive universal service support pursuant to 47 U.S.C. § 214(e).

“*Facilities*” means any physical components of the telecommunications network that are used in the transmission or routing of the services designated for universal service fund support, as expressed at 47 CFR § 54.201(e).

“*High-cost support*” means the same as defined at 47 CFR Subchapter B, Part 54 to include those support mechanisms provided pursuant to: subpart D (universal service support for high cost areas); subpart J (rural digital opportunity fund support); subpart K (interstate common line support); subpart L (mobility fund support); subpart M (high-cost loop support); and subpart O (Uniendo a Puerto Rico Fund).

“*Lifeline program*” means the federal universal service program providing support for low-income consumers that is defined in 47 CFR § 54.401.

“*Services designated for support*” means voice telephone service and broadband service.

“*Tribal Link Up*” means an assistance program for eligible residents of tribal lands seeking telecommunications service from a telecommunications carrier that is defined in 47 CFR § 54.413(a).

“*Voice telephony service*” means the service (defined at 47 CFR § 54.400(m)) designated by the FCC at 47 CFR § 54.101 as eligible for support by the federal universal service support mechanisms.

199—39.3(476) Applying for designation as an eligible telecommunications carrier.

39.3(1) A common carrier must be designated as an ETC to qualify for support from the federal universal service fund. The board reviews applications for designation as an ETC for compliance with 47 U.S.C. § 214(e)(1) and grants ETC designations to qualified applicants for a service area designated by the board. If an applicant requests an expedited ruling from the board on an application to be designated as an ETC or on an amendment to an existing ETC designation, the applicant shall specify why an expedited process is necessary and why an expedited review would not be contrary to the public interest.

39.3(2) An application for an ETC designation must contain the following:

- a.* Where an applicant offers more than one type of communications service, a clear statement of which entity is requesting the designation.
- b.* A clear statement of the purposes for which the designation is sought, and a statement of financial and technical qualification to provide the supported service. An applicant shall specify whether designation is sought for purposes of receiving support from the high-cost fund or mobility fund; for Lifeline purposes only; or other specified purpose recognized by the FCC.
- c.* A certification that the applicant offers or intends to offer all services designated for support, as identified in 47 CFR § 54.101, throughout the applicant's approved service area.
- d.* An explanation of how the carrier will provide voice telephony service and broadband service.
- e.* A certification that the applicant offers or intends to offer the supported services either using its own facilities or a combination of its own facilities and resale of another carrier's services. "Own facilities" includes unbundled network elements, in whole or in part. The facilities providing the services supported by the universal service fund need not be physically located in the area served. Wireless resellers shall provide the name of the facilities-based wireless carrier(s) whose services they are reselling and demonstrate they have an agreement with the carrier(s) in Iowa that will cover the applicant's proposed designated service area. The board will not designate as an eligible telecommunications carrier a carrier that offers the services supported by federal universal service support mechanisms exclusively through the resale of another carrier's services, unless the carrier obtains FCC approval of a compliance plan and commits to certain 911 conditions.
- f.* A description of how the applicant advertises the availability of supported services and the charges therefor using media of general distribution.
- g.* A detailed description, including a map or maps, of the geographic service area for which the applicant requests an ETC designation from the board. An applicant seeking designation in connection with the connect America fund Phase II auction or other similar conditional support mechanism shall file a list of the census blocks in which the applicant will serve as an ETC, in addition to the map included with the description required by this paragraph. Wireless telecommunications carriers, defined as commercial mobile radio service providers in 47 CFR Parts 20 and 24, shall file coverage area maps and maps that depict signal strength. Requests to withhold from public inspection maps depicting signal strength will be deemed granted as provided in 199—Chapter 1, "Public information and inspection records."
- h.* Where the application is from a carrier seeking a designation as an ETC for an area served by a rural telephone company as defined in 47 CFR § 51.5, a demonstration that the requested designation is in the public interest.
- i.* An affirmative statement that the applicant will use the support only for the provision, maintenance, and upgrading of facilities to deploy, improve, and support services to consumers in the applicant's designated service area. Applicants seeking designation only for purposes of receiving support from the Lifeline program need not include an affirmative statement or other information concerning network improvements planned for the designated service area.
- j.* An affirmative statement explaining how the applicant will remain functional in emergency situations. The statement shall include examples illustrating that the applicant has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.
- k.* A certification that the applicant will comply with the service requirements applicable to the support that it seeks to receive.
- l.* A certification that the applicant will contribute to the dual party relay service, as provided in Iowa Code section 447C.7(1).
- m.* For applications from carriers seeking designation as an ETC for any part of tribal lands, the applicant shall provide a copy of its application to the affected tribal government and tribal regulatory authority at the time it files the application with the board.

n. A certification that the applicant will satisfy applicable consumer protection and service quality standards. Wireless ETC applicants shall commit to complying with the consumer protection standards established by the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service, including a certification to abide by the following specified standards:

(1) Provide ready access to customer service. Customers will be provided a toll-free telephone number to access a carrier's customer service during normal business hours. Customer service contact information will be provided to customers online and on billing statements. Each wireless carrier will provide information about how customers can contact the carrier in writing, by toll-free telephone number, via the Internet, or otherwise with any inquiries or complaints, and this information will be included, at a minimum, on all billing statements, in written responses to customer inquiries, and on carriers' websites. Each carrier will also make such contact information available, upon request, to any customer calling the carrier's customer service departments.

(2) Promptly respond to consumer inquiries and complaints received from government agencies. Inquiries for information or complaints to a wireless ETC shall be resolved promptly and courteously. If a wireless ETC cannot resolve a dispute with the applicant or customer, the wireless ETC shall inform the applicant or customer of the right to file a complaint with the board. The wireless ETC shall provide the following board address and toll-free telephone number: Iowa Utilities Board, Customer Service, 1375 E. Court Avenue, Des Moines, Iowa 50319-0069; 877.565.4450. When the board receives a complaint, the board shall follow the procedures set out in 199—Chapter 6. In any complaint proceeding pursuant to this subparagraph, if the wireless ETC asserts that the complainant is located in an area where the wireless ETC is not designated as an ETC, the wireless ETC must submit evidence in support of its assertion.

39.3(3) Amendments, assignments and transfers of control. Except as otherwise provided in this subrule, a carrier's ETC designation may be amended or assigned, or control of such designation may be transferred by the transfer of control of the carrier, whether voluntarily or involuntarily, directly or indirectly, only upon application to and prior approval by the board.

a. Assignment. For purposes of this subrule, an assignment of a designation is a transaction in which a board-issued ETC designation is assigned from one carrier to another carrier. Following an assignment, the designation is held by a carrier other than the carrier to which it was originally granted.

b. Transfers of control. For purposes of this subrule, a transfer of control is a transaction in which a board-issued designation remains held by the same carrier, but there is a change in the individuals or entities that control the carrier. A change from less than 50 percent ownership to 50 percent or more ownership shall always be considered a transfer of control. A change from 50 percent or more ownership to less than 50 percent ownership shall always be considered a transfer of control. In all other situations, whether the interest being transferred is controlling must be determined on a case-by-case basis. The factors relevant to a determination of control in addition to equity ownership include, but are not limited to, the following:

(1) Power to constitute or appoint more than 50 percent of the board of directors or partnership management committee;

(2) Authority to appoint, promote, demote, and fire senior executives who control the day-to-day activities of the carrier;

(3) Ability to play an integral role in major management decisions of the carrier;

(4) Authority to pay financial obligations, including expenses arising out of operations;

(5) Ability to receive moneys and profits from the carrier's operations; and

(6) Unfettered use of all of the carrier's facilities and equipment.

c. Pro forma assignments and transfers of control. Assignments or transfers of control that do not result in a change in the actual controlling party are considered nonsubstantial or pro forma. If a

transaction is one of the types listed below, the transaction is presumptively pro forma and prior board approval need not be sought:

- (1) Assignment from an individual or individuals to an entity owned and controlled by such individuals without any substantial change in their relative interests;
- (2) Assignment from an entity to its individual equity holders without effecting any substantial change in the disposition of their interests;
- (3) Assignment or transfer by which certain equity holders retire and the interest transferred is not a controlling one;
- (4) Entity reorganization that involves no substantial change in the beneficial ownership of the carrier (including reincorporation or reorganization in a different jurisdiction or change in form of the business entity);
- (5) Assignment or transfer from a carrier to a wholly owned direct or indirect subsidiary thereof or vice versa, or where there is an assignment from a carrier to an entity owned or controlled by the same equity holders without substantial change in their interests; or
- (6) Assignment of less than a controlling interest in a carrier.

d. Applications for substantial transactions. In the case of an assignment or transfer of control of board-designated ETC that is not pro forma, the parties to such a transaction must file a joint application with the board prior to consummation of the proposed assignment or transfer of control. The application shall include the following information:

(1) A brief narrative of the means by which the proposed transfer or assignment will take place. This narrative should include a statement concerning how the transaction will be classified for the purposes of any filings required to be made by the parties with the Universal Service Administrative Company (USAC).

(2) Identification of each applicant, including the legal name and state or other governmental authority under the laws of which each entity applicant is incorporated or organized.

(3) The name, title, mailing address, telephone number, and email contact information for each applicant.

(4) The name, title, mailing address, telephone number, and email contact information for an application contact point, such as an executive officer, legal counsel, or regulatory consultant, to whom correspondence concerning the application should be addressed.

(5) A statement identifying the date on which the applicants are asking for the transfer of the ETC designation to be effective. Where the timing of a transaction is dependent on facts objectively ascertainable outside of the filing (i.e., regulatory, lender, or other third-party approval), the parties should include a statement concerning the manner in which such facts will operate on the effective date or other terms of the transaction.

(6) A certification as to whether the assignee/transferee is a board-designated ETC. If the assignee/transferee is not a board-designated ETC, the assignee/transferee shall separately file with the board an application for designation as an ETC as provided in subrule 39.3(2). If the assignee/transferee is a board-designated ETC, the joint application shall include a certification from the assignee/transferee that (a) the assignee/transferee is a board-designated ETC in good standing and (b) the assignee/transferee will comply with the state and federal requirements for eligibility as an ETC, including the use of support to provide designated services within the assigned or transferred service area.

(7) Whether as part of the transaction, the assignor/transferor is requesting to relinquish its ETC status in whole or in part. If the assignor/transferor is requesting to relinquish its ETC status, the joint application shall be deemed to be the assignor/transferor's request for relinquishment of ETC designation under 199—39.8(476); provided that such relinquishment shall be conditioned on consummation of the transaction described in the application. If the assignor/transferor is for any reason seeking the unconditional relinquishment of its ETC status, such request should be filed separately under 199—39.8(476).

e. Board approval. Where an assignment or transfer of control involves a transferee/assignee that is already a board-designated ETC, such application shall be granted by the board 30 days after

the date the complete application seeking approval of the assignment or transfer of control is accepted for filing, unless the board, for good cause, docket the application for further investigation. Where an assignment or transfer of control involves a transferee/assignee that is not already a board-designated ETC, such application shall be granted by the board at the same time as the board grants the assignee/transferee's application for ETC designation in accordance with the timelines and procedures set forth in subrule 39.3(2).

f. Notification of pro forma transactions. In the case of a pro forma assignment or transfer of control, the designated ETC is not required to seek prior board approval. Instead, a pro forma assignee or a carrier that is subject to a pro forma transfer of control must file a notification with the board no later than 30 days after the assignment or transfer is completed. The notification must contain the following:

(1) The information requested in subparagraphs 39.3(3) "d"(1) through (4) for the transferee/assignee.

(2) A certification that the transfer of control or assignment was pro forma and that, together with all previous pro forma transactions, the transfer of control or assignment does not result in a change in the actual control of the carrier.

(3) A certification from the assignee/transferee that the assignee/transferee will comply with the state and federal requirements for eligibility as an ETC, including the use of support to provide designated services within the assigned or transferred service area.

g. Involuntary assignments or transfers of control. In the case of an involuntary assignment or transfer of control to a bankruptcy trustee appointed under involuntary bankruptcy; to an independent receiver appointed by a court of competent jurisdiction in a foreclosure action; or in the case of death or legal disability, to a person or entity legally qualified to succeed the deceased or disabled person under the laws of the place having jurisdiction over the estate involved, the applicant must make the appropriate filing no later than 30 days after the event causing the involuntary assignment or transfer of control.

h. Notification of consummation. An assignee or transferee must notify the board no later than 30 days after either consummation of the proposed assignment or transfer of control or a decision not to consummate the proposed assignment or transfer of control. The notification shall identify the docket number(s) under which the authorization of the assignment or transfer of control was granted.

i. Amendments other than transactions. Where a carrier that has been designated by the board as an ETC intends to serve as an ETC in a new service area for the purpose of receiving federal high-cost support, the carrier shall file a request to amend its designation with a notice of expansion at least 30 days in advance of the expansion and shall certify that the carrier intends to amend its designation to serve as an ETC in the expanded service area.

199—39.4(476) Lifeline-only applicants. Where an applicant is seeking designation only for purposes of receiving support from the Lifeline program, the following requirements apply in addition to those specified in 199—39.3(476):

39.4(1) Approved compliance plan required. The applicant shall submit a copy of a compliance plan submitted to the FCC and a copy of the Commission's notice of approval. An applicant offering service utilizing its own facilities or a combination of its own facilities and the resale of another carrier's facilities need not provide a compliance plan.

39.4(2) Terms and conditions of voice telephony service offered to Lifeline subscribers. The applicant shall submit information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for such plan. To the extent the applicant offers to Lifeline subscribers plans that are generally available to the public, the applicant may provide summary information regarding such plans, such as a link to a public website outlining the terms and conditions of such plans.

39.4(3) *Terms and conditions of broadband internet access service offered to Lifeline subscribers.* The applicant shall submit information describing the terms and conditions of any broadband internet access service plans offered to Lifeline subscribers, including details on the speeds offered, data usage allotments, additional charges for particular uses, if any, and rates for each such plan. To the extent the applicant offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding those plans, such as a link to a public website outlining the terms and conditions of the plans.

39.4(4) *Demonstration of financial and technical capability to provide supported services.* The applicant shall demonstrate that it is financially and technically capable of providing the supported Lifeline service in compliance with 47 CFR Subchapter B, Part 54, Subpart E, as required by 47 CFR § 54.201(h). Relevant considerations include, but are not limited to, how long the carrier has been in business, whether the applicant intends to rely exclusively on universal service fund disbursements to operate, whether the applicant receives or will receive revenue from other sources, whether the applicant has been subject to enforcement action or ETC revocation proceedings in any state, and whether the applicant has defaulted on previous universal service fund commitments.

199—39.5(476) Service area.

39.5(1) Unless otherwise ordered by the board, the approved service area for universal service fund support calculations will be the same as the service area currently approved for local service by the board. Those carriers not currently approved to provide local service are required to provide documentation showing their service area.

39.5(2) In the case of a service area served by a rural telephone company, “service area” means such company’s “study area” unless and until the FCC and the states, after taking into account recommendations of a federal-state joint board instituted under 47 U.S.C. § 410(c), establish a different definition of service area for such company.

39.5(3) In the case of a wireless telecommunications carrier, “service area” means that area where the wireless company has been licensed by the FCC to provide service.

199—39.6(476) Universal service support for low-income consumers (Lifeline program and Tribal Link Up program).

39.6(1) *Carrier obligation to offer Lifeline.* Pursuant to 47 CFR § 54.405, all ETCs must make Lifeline service available, as defined in 47 CFR § 54.401, to qualifying low-income consumers, defined as consumers who meet the qualifications for Lifeline as specified in 47 CFR § 54.409. ETCs must comply with the minimum service standards specified in 47 CFR § 54.408.

39.6(2) *Customer notification.* ETCs shall include a description of their Lifeline offerings or discounts in their residential service agreements. ETCs shall provide the board with information about their residential service agreements upon request. ETCs shall publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for service as required by 47 CFR § 54.405(b).

39.6(3) *Consumer qualification for Lifeline.* To qualify for Lifeline, a consumer must meet the qualifications for Lifeline as specified in 47 CFR § 54.409. A consumer may only receive one Lifeline service per household.

39.6(4) *Determination of subscriber eligibility.* ETCs shall ensure that their Lifeline subscribers are eligible to receive Lifeline services in accordance with 47 CFR § 54.410. Eligible telecommunications carriers shall:

a. Implement policies and procedures for ensuring that their Lifeline subscribers are eligible to receive Lifeline services;

b. Confirm a subscriber’s income-based or program-based eligibility according to 47 CFR § 54.410(b) or (c);

c. Provide prospective subscribers Lifeline certification forms that comply with 47 CFR § 54.410(d); and

d. Recertify all subscribers’ Lifeline eligibility in accordance with 47 CFR § 54.410(f) and (g).

39.6(5) Annual certifications by eligible telecommunications carriers. ETCs shall make and submit to the USAC annual certifications relating to the Lifeline program as required by 47 CFR § 54.416. ETCs shall file their annual Lifeline certifications with the board as provided in paragraph 39.7(1) “a” and, if applicable, with the relevant tribal governments.

39.6(6) Tribal Link Up. A telecommunications carrier receiving high-cost support on tribal lands that is offering the Tribal Link Up assistance program to eligible residents of tribal lands, as defined in 47 CFR § 54.400(e), must provide (1) a 100 percent reduction of the customary connection charge for commencing service at a subscriber’s residence, and (2) a deferred schedule of interest-free payments for the connection charge, pursuant to 47 CFR § 54.413. Prior to enrolling an eligible resident of tribal lands in the Tribal Link Up program, an ETC must obtain from the resident a certification form that complies with 47 CFR § 54.410.

39.6(7) Audits. ETCs shall file with the board finalized reports of audits involving the audited ETC’s operations in Iowa conducted pursuant to 47 CFR § 54.420 requiring low-income program audits. The audit reports will not be considered or deemed confidential. The audit reports shall be filed with the board within 30 days of issuance of the final audit report.

199—39.7(476) Annual reporting requirements.

39.7(1) Annual certifications from carriers seeking to continue to receive high-cost support. Any carrier seeking to continue to receive federal high-cost support shall file with the board no later than July 1 of each year an affidavit titled “Certification of [Company Name].” The company name shall be the name used on the carrier’s initial application for ETC designation and its current name, if its name has changed.

a. Contents of affidavit:

(1) The affidavit shall include the study area code (SAC) number associated with the company, as well as the carrier’s Company Number (CoNo) as granted by the Iowa Utilities Board.

(2) The affidavit shall be sworn and notarized and shall be executed by an authorized corporate officer.

(3) The affidavit shall certify that the carrier has used all federal high-cost support provided in the preceding calendar year and will use all federal high-cost support provided to the carrier in the coming calendar year received pursuant to 47 CFR Subchapter B, Part 54, Subparts D, J, K, L, M, and O as defined in 47 CFR § 54.5, only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

(4) The affidavit shall certify to the following: as an eligible telecommunications carrier, the carrier agrees to provide timely responses to board requests for information related to the status of local markets for supported services, including local markets for supported voice and broadband services.

b. Any certification filed by a carrier shall be subject to complaint or investigation by the board.

c. An ETC’s certification shall be the basis of the board’s certification to the FCC and USAC pursuant to 47 CFR § 54.314 that the ETC has used and will use the support for the purposes intended.

39.7(2) Filing instructions. The affidavit certifying compliance shall be filed using the board’s electronic filing system in accordance with 199—Chapter 14, unless the board directs otherwise by order issued in advance of the filing deadline. The filing shall be titled “Annual Eligible Telecommunications Carrier Reporting Requirements,” with a reference to the year for which the report is filed. The document title for the affidavit certifying compliance shall be “Carrier Certification.”

199—39.8(476) Relinquishment of ETC designation.

39.8(1) The board may permit an ETC to relinquish its designation as such a carrier in any area served by more than one ETC. An ETC that seeks to relinquish its designation for an area served by more than one ETC shall give 30 days’ advance notice to the board of such relinquishment. A carrier

that is granted ETC status in connection with a federal universal support program but that ultimately does not receive the support shall, within 30 days after the FCC issues a public notice regarding the award of support, file a notice of relinquishment of the carrier's designation for any service areas where the carrier is not awarded funds and does not plan to offer service.

39.8(2) Prior to permitting a telecommunications carrier designated as an ETC to cease providing universal service in an area served by more than one ETC, the board shall require the remaining ETCs to ensure that all customers served by the relinquishing carrier will continue to be served and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining ETC. The board shall establish a time, not to exceed one year after the board approves such relinquishment under this rule, within which such purchase or construction shall be completed.

These rules are intended to implement Iowa Code sections 17A.4, 476.2, 476.15, and 476.102 and 47 U.S.C. Section 214(e) and 254.