

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2062

By: Fincher

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6 AS INTRODUCED

7 An Act relating to the Corporation Commission;
8 amending Section 6, Chapter 270, O.S.L. 2016 (17 O.S.
9 Supp. 2018, Section 139.109.1), which relates to
10 Special Universal Services; modifying name of certain
11 letter; allowing certain individuals to opt out of
12 submitting certain letter; authorizing Administrator
13 to take enforcement actions in certain instances; and
14 providing an effective date.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY Section 6, Chapter 270, O.S.L.
17 2016 (17 O.S. Supp. 2018, Section 139.109.1), is amended to read as
18 follows:

19 Section 139.109.1 A. The following services are hereby
20 declared to be Special Universal Services:

21 1. Each eligible healthcare entity in this state as defined in
22 Section 139.102 of ~~Title 17 of the Oklahoma Statutes~~ this title
23 shall be eligible to receive Special Universal Services for
24 telemedicine providers. Special Universal Services for telemedicine
providers shall include the provision of bandwidth per standards as
recommended by the Federal Communications Commission sufficient for

1 providing telemedicine services including the telemedicine line,
2 reasonable installation and network termination equipment owned and
3 operated by the eligible provider that is necessary to provide the
4 eligible telemedicine service;

5 2. Each public school as defined in Section 139.102 of ~~Title 17~~
6 ~~of the Oklahoma Statutes~~ this title shall be eligible to receive
7 Special Universal Services for schools. Special Universal Services
8 for schools shall include the E-rate Eligible Services List (ESL)
9 for Category One services as determined by the FCC for the
10 applicable funding year or, in the absence of such a list, as
11 published by the Universal Services Administrative Company. In the
12 event no ESL is available from the FCC or USAC for the applicable
13 funding year, eligible services will be those on the ESL for the
14 last funding year for which an ESL was available. Special Universal
15 Services shall include the provision of bandwidth sufficient for
16 providing educational services not to exceed, without good cause
17 shown, the standards established for the relevant funding year by
18 the State Educational Technology Directors Association (SETDA) or
19 successor educational broadband standard including Internet access
20 lines, WAN connections, reasonable installation, and network
21 termination equipment owned and operated by the eligible provider as
22 defined by the ESL that is necessary to provide the eligible
23 service. Student counts as reported to the State Department of
24 Education in October of the year prior to the relevant funding year

1 shall be utilized for the purpose of determining bandwidth
2 recommendations established by SETDA for purposes of this paragraph.
3 In the absence of standards prescribed for the applicable funding
4 year, the standards for the next prescribed funding year shall be
5 used. Special Universal Services shall not include voice services
6 that use separate lines or have allocated bandwidth. The Commission
7 may modify the service considered to be Special Universal Services
8 pursuant to rule, after notice and hearing; and

9 3. Each public library as defined in Section 139.102 of ~~Title~~
10 ~~17 of the Oklahoma Statutes~~ this title shall be eligible to receive
11 Special Universal Services for libraries. Special Universal
12 Services for libraries shall include the E-rate Eligible Services
13 List ("ESL") for Category One services as determined by the Federal
14 Communications Commission for the applicable funding year or, in the
15 absence of such a list, as published by the Universal Services
16 Administrative Company. In the event no ESL is available from the
17 FCC or USAC for the applicable funding year, eligible services will
18 be those on the ESL for the last funding year for which an ESL was
19 available. Special Universal Services shall include the provision
20 of bandwidth sufficient for providing library services per standards
21 as recommended by the Federal Communications Commission including
22 Internet access lines, reasonable installation and network
23 termination equipment owned and operated by the eligible provider
24 that is necessary to provide the eligible service. Special

1 Universal Services shall not include voice services that use
2 separate lines or have allocated bandwidth. The Commission may
3 modify the services considered to be Special Universal Services
4 pursuant to rule, after notice and hearing.

5 B. 1. Eligible services that are exempt from competitive
6 bidding pursuant to state law or the rules of the Federal Universal
7 Service Support Mechanisms or successor program or programs shall be
8 exempt from the Special Universal Services competitive bidding
9 requirements set forth in this subsection, and the Oklahoma
10 Universal Service Fund Beneficiary must provide evidence of such
11 exemption as part of the funding request.

12 2. An OUSF Beneficiary may be eligible to receive funding from
13 both the OUSF and other state or federal funds; however, in no
14 instance shall there be a double recovery. The OUSF Beneficiary
15 shall make every reasonable effort to obtain funding from another
16 state and/or federal fund designed to support Special Universal
17 Services. The OUSF Beneficiary shall provide the OUSF Administrator
18 with information regarding the recipient's request for funding from
19 government sources designed to support the provisioning of Special
20 Universal Services, or an explanation of why such funding is not
21 available or why the recipient of the Special Universal Services did
22 not request such funding. Failure to provide such documentation may
23 result in the OUSF Administrator denying in whole or in part, a
24 request for Special Universal Services funding from the OUSF. If an

1 OUSF Beneficiary is not eligible to receive funding from other state
2 or federal funds per the program rules of the other state or federal
3 funds, the OUSF Beneficiary shall be exempt from the requirement to
4 obtain funding from another state and/or federal fund designed to
5 support Special Universal Services set forth in this subsection.
6 The OUSF Beneficiary must provide evidence of such exemption as part
7 of the funding request.

8 3. The credit amount for the provision of Special Universal
9 Services as provided for in subsection A of this section shall be
10 determined as provided for in this subsection.

11 4. An eligible provider shall be entitled to reimbursement from
12 the Oklahoma Universal Service Fund (OUSF) for providing Special
13 Universal Services as described in subsection A of this section. In
14 no case shall the reimbursement from the OUSF be made for an
15 Internet subscriber fee or charges incurred as a result of services
16 accessed via the Internet.

17 5. Oklahoma Universal Service Fund Beneficiaries shall conduct
18 a fair and open competitive bidding process to select the services
19 and carrier eligible for support. The competitive bidding process
20 shall meet the following standards:

21 a. the solicitation of bids shall clearly identify the
22 bandwidth range requested by the Oklahoma Universal
23 Service Fund Beneficiary or consortium,

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1 b. the Oklahoma Universal Service Fund Beneficiary shall
2 not limit bidders based upon technology,

3 c. the bidding shall be open to all carriers authorized
4 to receive OUSF funding in the telephone exchange
5 where the Oklahoma Universal Service Fund Beneficiary
6 is located or where the members of the consortium are
7 located, and

8 d. the bidding shall not be structured in a manner to
9 exclude carriers eligible to receive OUSF funding in
10 the telephone exchange where the Oklahoma Universal
11 Services Fund Beneficiary is located.

12 6. For Special Universal Services that are competitively bid in
13 compliance with this act, the credit amount shall be not more than
14 twenty-five percent (25%) greater than the lowest cost reasonable
15 qualifying bid of the total prediscount amount of eligible services
16 plus installation charges, less federal funding support for the same
17 services including installation charges issued in a funding
18 commitment letter or similar approval document for the Federal
19 Universal Service Support Mechanism or successor program or programs
20 for the applicable funding year.

21 7. For purposes of this act, "lowest cost reasonable qualifying
22 bid" means a bid that:

- a. represents the lowest total cost proposal including monthly recurring and nonrecurring charges for eligible services,
- b. is reasonable to meet the needs of the Oklahoma Universal Service Fund Beneficiary as listed in the request for bids,
- c. is submitted during the same competitive bidding period as the awarded bid,
- d. is for a bandwidth within the range requested for bid and selected by the Oklahoma Universal Service Fund Beneficiary,
- e. is for the same contract term as the bid that was selected by the Oklahoma Universal Service Fund Beneficiary,
- f. meets the requirements specified in the request for bid by the Oklahoma Universal Service Fund Beneficiary, and
- g. was the result of a fair and open competitive bidding process as defined in this act.

8. If a long-term contract includes change clauses for changes in sites or services, the Oklahoma Universal Service Fund Beneficiary shall not be required to conduct a new competitive bid during the life of the original contract, which may not exceed five (5) years.

1 9. For eligible services associated with an Oklahoma Universal
2 Service Fund Beneficiary that does not competitively bid in
3 compliance with this act, the credit amount shall be determined at
4 the discretion of the Administrator.

5 C. 1. Special Universal Services shall not be sold, resold or
6 transferred in consideration for money or any other thing of value.

7 2. The OUSF shall not fund more than one eligible provider for
8 the same service at the same location for the same time period,
9 except during a transition period from one eligible provider to
10 another. Funding during a transition period shall not exceed thirty
11 (30) days.

12 D. The Administrator shall have the authority to investigate
13 each request for OUSF funding for Special Universal Services in
14 order to ensure that the OUSF pays only for the Special Universal
15 Services authorized in this section. The Administrator shall deny
16 requests for OUSF funding in excess of the credit amounts authorized
17 in subsection B of this section unless good cause is shown.

18 E. The Corporation Commission shall have authority to
19 investigate and modify or reject in whole or part a Special
20 Universal Service request under subsection A of this section if the
21 request does not meet the specified criteria, if the Corporation
22 Commission's investigation determines that the entity has not
23 provided sufficient documentation for the requested services, or if
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1 the Corporation Commission determines that granting the request is
2 not in the public interest due to fraud.

3 F. 1. The Special Universal Services preapproval and
4 reimbursement procedures as set forth in this subsection shall be
5 effective and shall apply for each applicable funding year beginning
6 July 1, 2017.

7 2. The Oklahoma Universal Service Fund Beneficiary
8 administrative preapproval submission process shall be as follows:

9 a. the Administrator shall establish an administrative
10 approval process to be initiated by the Oklahoma
11 Universal Service Fund Beneficiary in a timely fashion
12 for the purpose of determining eligible services and
13 credit amounts for the upcoming funding year. The
14 administrative preapproval submission process shall
15 include all necessary forms and instructions,
16 hereinafter referred to as the "OUSF administrative
17 preapproval request". The Administrator shall
18 determine the form for the OUSF administrative
19 preapproval requests. The form shall be posted on the
20 Commission website no later than June 30 of each year
21 to become effective for any OUSF administrative
22 preapproval requests submitted after August 31 of that
23 year. Any party may file an objection to the form
24 with the Commission within fifteen (15) days of

1 posting. The Commission shall issue a final order on
2 the objection to the form within thirty (30) days,
3 b. the Administrator shall issue an ~~approval~~ a
4 preapproval funding letter to the Oklahoma Universal
5 Service Fund Beneficiary and the eligible provider
6 within ninety (90) days of receipt of a properly
7 completed OUSF administrative preapproval request.
8 Failure by the Administrator to issue an ~~approval~~ a
9 preapproval funding letter within the ninety-day
10 period means the OUSF administrative preapproval
11 request submitted by the Oklahoma Universal Service
12 Fund Beneficiary is approved as submitted and the
13 subsequent request for reimbursement submitted by the
14 eligible provider which is consistent with the
15 information submitted in the OUSF administrative
16 preapproval request shall be approved as submitted,
17 c. the ~~approval~~ preapproval funding letter shall inform
18 the Oklahoma Universal Service Fund Beneficiary of the
19 preapproved services and associated credit amount for
20 the applicable funding year. The amount of OUSF
21 funding preapproved under this subsection may be
22 subject to adjustments based on the amount of support
23 received from other sources, if any, and adjustments
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1 to pricing that may occur between the time of
2 preapproval and installation of service,

3 d. any OUSF administrative preapproval request shall be
4 submitted to the Administrator in the format outlined
5 in instructions posted on the Commission website. The
6 OUSF administrative preapproval request shall include
7 but not be limited to the following:

8 (1) a Special Universal Services request form as
9 posted on the Commission website no later than
10 June 30 of each year for requests made after
11 August 31 of that year,

12 (2) a Federal Universal Service Support Mechanism or
13 successor program or programs form used to
14 request federal funding support for the
15 applicable funding year,

16 (3) a federal funding commitment letter for the
17 applicable funding year, if issued, and

18 (4) competitive bidding documentation for the
19 relevant funding year,

20 e. issuance of an OUSF ~~approval~~ preapproval funding
21 letter by the Administrator shall occur without a
22 Commission order,

23 f. OUSF administrative preapproval requests not submitted
24 by June 30 prior to the applicable funding year shall

1 be processed by the Administrator on a first-in-first-
2 out basis, ~~and~~

3 g. after a preapproval funding letter has been issued, an
4 OUSF Beneficiary may submit a new administrative
5 preapproval request to provide corrections or
6 additional information per program rules issued by the
7 Commission, and

8 h. the OUSF beneficiary may opt not to submit the
9 preapproval funding letter, in which case, the
10 Administrator shall use existing procedures to
11 evaluate the request.

12 3. The eligible provider reimbursement process shall be as
13 follows:

14 a. requests for reimbursement shall be submitted per
15 procedures as set forth in subsection D of Section
16 139.106 of Title 17 of the Oklahoma Statutes,

17 b. the Administrator shall post the monthly payout report
18 to the Commission website,

19 c. funding for eligible services, including federal
20 funding, shall not exceed actual eligible expenses,

21 d. any change in cost of eligible services during the
22 funding year shall be reported by the eligible
23 provider to the OUSF and:
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1 (1) all decreases in cost shall be deemed approved
2 until the next eligible bidding period and all
3 cost savings shall be properly allocated to the
4 OUSF and the Oklahoma Universal Service Fund
5 Beneficiary, and

6 (2) increases in cost shall be reviewed for approval
7 as provided for in Commission rules, and

8 e. issuance of a determination by the Administrator shall
9 not require a Commission order.

10 G. The Administrator may take enforcement action against
11 carriers that do not timely file for OUSF reimbursement if the
12 beneficiary has evidence that the beneficiary requested the carrier
13 to file and provided the relevant information to the carrier.

14 SECTION 2. This act shall become effective November 1, 2019.

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