

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1471

By: Smalley

4
5
6 AS INTRODUCED

7 An Act relating to telecommunications; amending 17
8 O.S. 2011, Sections 139.102, as last amended by
9 Section 3, Chapter 270, O.S.L. 2016, 139.106, as
10 amended by Section 4, Chapter 270, O.S.L. 2016,
11 139.107, as amended by Section 5, Chapter 270, O.S.L.
12 2016 and Section 6, Chapter 270, O.S.L. 2016 (17 O.S.
13 Supp. 2017, Sections 139.102, 139.106, 139.107 and
14 139.109.1), which relate to definitions, the Oklahoma
15 Universal Service Fund, administration of funds and
16 Special Universal Services; amending definitions;
17 establishing procedures for the termination of the
18 Oklahoma Universal Service Fund (OUSF); eliminating
19 certain procedures for reimbursement from certain
20 funds; defining terms; establishing procedures for
21 recovery from OUSF; clarifying funding destinations
22 for certain OUSF monies; modifying method of
23 calculation on certain costs; removing automatic
24 approval provision of certain cost studies; removing
procedures for requesting OUSF funding for certain
entities; establishing procedures for requesting
primary universal service funding; establishing
procedures for the termination of the Oklahoma
Lifeline Fund (OLF); removing certain assessment
level requirements for OUSF and OLF; declaring
certain monies public funds and directing to specific
use; requiring certain reimbursements be paid from
certain funds; establishing procedures for the OUSF
charge; modifying Special Universal Services credit
amount; modifying Corporation Commission
investigatory authority; modifying procedures for
Special Universal Services preapproval and
reimbursement; amending Sections 2, 5, 6 and 7,
Chapter 324, O.S.L. 2016 (63 O.S. Supp. 2017,
Sections 2862, 2865, 2866 and 2867), which relate to
definitions, fees, payment of fees, collection and

1 payment of fees; combining certain fees; updating
2 statutory references; modifying certain fee
3 collected; modifying procedures for payment of
4 certain fee; establishing certain combined fee;
5 establishing procedures for combined fee; conforming
6 language; and providing an effective date.

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

8 SECTION 1. AMENDATORY 17 O.S. 2011, Section 139.102, as
9 last amended by Section 3, Chapter 270, O.S.L. 2016 (17 O.S. Supp.
10 2017, Section 139.102), is amended to read as follows:

11 Section 139.102. As used in the Oklahoma Telecommunications Act
12 of 1997:

13 1. "Access line" means the facilities provided and maintained
14 by a telecommunications service provider which permit access to or
15 from the public switched network or its functional equivalent
16 regardless of the technology or medium used;

17 2. "Administrative process" means an administrative application
18 process which allows eligible local exchange telecommunications
19 providers and eligible providers to request funding and an
20 administrative submission process that allows Oklahoma Universal
21 Service Fund Beneficiaries to submit a preapproval request directly
22 with the Administrator. Both of the administrative processes shall
23 not require an order from the Commission to determine eligibility
24 for, allocate or disburse funds unless a request for reconsideration
is filed;

1 3. "Administrator" means the Director of the Public Utility
2 Division of the Corporation Commission;

3 4. "Commission" means the Corporation Commission of this state;

4 5. "Competitive local exchange carrier" or "CLEC" means, with
5 respect to an area or exchange, a telecommunications service
6 provider that is certificated by the Commission to provide local
7 exchange services in that area or exchange within the state after
8 July 1, 1995;

9 6. "Competitively neutral" means not advantaging or favoring
10 one person or technology over another;

11 7. "Consortium" means, as used in Section ~~6 of this act~~
12 139.109.1 of this title, two or more Oklahoma Universal Service Fund
13 Beneficiaries that choose to request support under the Federal
14 Universal Service Support Mechanism or successor program or programs
15 as a single entity;

16 8. "Contributing providers" means providers, including but not
17 limited to providers of intrastate telecommunications, providers of
18 intrastate telecommunications for a fee on a non-common-carrier
19 basis, providers of wireless telephone service and providers of
20 interconnected Voice over Internet Protocol (VoIP). Contributing
21 providers shall contribute to the Oklahoma Universal Service Fund
22 and Oklahoma Lifeline Fund. VoIP providers shall be assessed only
23 as provided for in the decision of the Federal Communications
24 Commission, FCC 10-185, released November 5, 2010, or such other

1 assessment methodology that is not inconsistent with federal law.
2 Entities exempt from contributing to the Federal Universal Service
3 Support Mechanisms are also exempt from contributing to the Oklahoma
4 Universal Service Fund and Oklahoma Lifeline Fund consistent with 47
5 C.F.R., Section 54.706(d). The term "contributing providers" may be
6 modified to conform to the definition of contributors as defined by
7 the FCC if adopted by the Commission, after notice and hearing;

8 9. "Eligible healthcare entity" means a not-for-profit
9 hospital, county health department, city-county health department,
10 not-for-profit mental health and substance abuse facility or
11 Federally Qualified Health Center in Oklahoma. Eligible healthcare
12 entity shall also include telemedicine services provided by the
13 Oklahoma Department of Corrections at facilities identified in
14 Section 509 of Title 57 of the Oklahoma Statutes;

15 10. "Eligible local exchange telecommunications service
16 provider" means ILEC, CLEC and commercial radio mobile service
17 provider as those terms are used in the Oklahoma Telecommunications
18 Act of 1997;

19 11. "Eligible provider" means, for purposes of Special
20 Universal Services, providers of telecommunications services which
21 hold a certificate of convenience and necessity and OneNet;

22 12. "End User Common Line Charge" means the flat-rate monthly
23 interstate access charge required by the Federal Communications
24 Commission that contributes to the cost of local service;

1 13. "Enhanced service" means a service that is delivered over
2 communications transmission facilities and that uses computer
3 processing applications to:

- 4 a. change the content, format, code, or protocol of
5 transmitted information,
- 6 b. provide the customer new or restructured information,
7 or
- 8 c. involve end-user interaction with information stored
9 in a computer;

10 14. "Exchange" means a geographic area established by an
11 incumbent local exchange telecommunications provider as filed with
12 or approved by the Commission for the administration of local
13 telecommunications service in a specified area which usually
14 embraces a city, town, or village and its environs and which may
15 consist of one or more central offices together with associated
16 plant used in furnishing telecommunications service in that area;

17 15. "Facilities" means all the plant and equipment of a
18 telecommunications service provider, including all tangible and
19 intangible real and personal property without limitation, and any
20 and all means and instrumentalities in any manner owned, operated,
21 leased, licensed, used, controlled, furnished, or supplied for, by,
22 or in connection with the business of any telecommunications service
23 provider;

1 16. "Federally Qualified Health Center" or "(FQHC)" means an
2 entity which:

3 a. is receiving a grant under Section 330 of the Public
4 Health Service (PHS) Act, 42 U.S.C., Section 254b, or
5 is receiving funding from a grant under a contract
6 with the recipient of such a grant and meets the
7 requirements to receive a grant under Section 330 of
8 the PHS Act,

9 b. based on the recommendation of the Health Resources
10 and Services Administration within the Public Health
11 Service, is determined by the Secretary of the
12 Department of Health and Human Services to meet the
13 requirements for receiving a grant as described in
14 subparagraph a of this paragraph,

15 c. was treated by the Secretary of the Department of
16 Health and Human Services, for purposes of part B of
17 Section 330 of the PHS Act, as a comprehensive
18 federally funded health center as of January 1, 1990,
19 or

20 d. is an outpatient health program or facility operated
21 by a tribe or tribal organization under the Indian
22 Self-Determination Act, 25 U.S.C., Section 450f et
23 seq., or by an urban Indian organization receiving
24

1 funds under Title V of the Indian Health Care
2 Improvement Act, 25 U.S.C., Section 1651 et seq.;

3 17. "Federal Universal Service Support Mechanism" is the
4 support program established by the Telecommunications Act of 1996,
5 47 U.S.C., Section 254(h). The program includes support for
6 schools, libraries and healthcare providers;

7 18. "Funding year" means, for purposes of administering the
8 Oklahoma Universal Service Fund, the period of July 1 through June
9 30;

10 19. "High speed Internet access service" or "broadband service"
11 means, as used in Section 139.110 of this title, those services and
12 underlying facilities that provide upstream, from customer to
13 provider, or downstream, from provider to customer, transmission to
14 or from the Internet in excess of one hundred fifty (150) kilobits
15 per second, regardless of the technology or medium used including,
16 but not limited to, wireless, copper wire, fiber optic cable, or
17 coaxial cable, to provide such service;

18 20. "Hospital" means a healthcare entity that has been granted
19 a license as a hospital by the Oklahoma Department of Health for
20 that particular location;

21 21. "Incumbent local exchange telecommunications service
22 provider" or "ILEC" means, with respect to an area or exchanges, any
23 telecommunications service provider furnishing local exchange
24 service in such area or exchanges within this state on July 1, 1995,

1 pursuant to a certificate of convenience and necessity or
2 grandfathered authority;

3 22. "Installation charge" means any charge for a nonrecurring
4 service charged by an eligible provider necessary to initiate
5 Special Universal Services. Installation charges may not exceed the
6 cost which would be charged for installation, if the cost were not
7 being paid for by the OUSF;

8 23. "Interexchange telecommunications carrier" or "IXC" means
9 any person, firm, partnership, corporation or other entity, except
10 an incumbent local exchange telecommunications service provider,
11 engaged in furnishing regulated interexchange telecommunications
12 services under the jurisdiction of the Commission;

13 24. "Internet" means the international research-oriented
14 network comprised of business, government, academic and other
15 networks;

16 25. "Local exchange telecommunications service" means a
17 regulated switched or dedicated telecommunications service which
18 originates and terminates within an exchange or an exchange service
19 territory. Local exchange telecommunications service may be
20 terminated by a telecommunications service provider other than the
21 telecommunications service provider on whose network the call
22 originated. The local exchange service territory defined in the
23 originating provider's tariff shall determine whether the call is
24 local exchange service;

1 26. "Local exchange telecommunications service provider" means
2 a company holding a certificate of convenience and necessity from
3 the Commission to provide local exchange telecommunications service;

4 27. "Not-for-profit hospital" means:

5 a. a hospital located in this state which has been
6 licensed as a hospital at that location pursuant to
7 Section 1-701 et seq. of Title 63 of the Oklahoma
8 Statutes for the diagnosis, treatment, or care of
9 patients in order to obtain medical care, surgical
10 care or obstetrical care and which is established as
11 exempt from taxation pursuant to the provisions of the
12 Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
13 or

14 b. a hospital located in this state which is licensed as
15 a hospital at that location pursuant to Section 1-701
16 et seq. of Title 63 of the Oklahoma Statutes and is
17 owned by a municipality, county, the state or a public
18 trust for the diagnosis, treatment, or care of
19 patients in order to obtain medical care, surgical
20 care, or obstetrical care;

21 28. "Not-for-profit mental health and substance abuse facility"
22 means a facility, not for the sole purpose of administration, which
23 is operated by the Department of Mental Health and Substance Abuse
24 Services or a facility certified by the Department of Mental Health

1 and Substance Abuse Services as a Community Mental Health Care
2 Center, a Community-Based Structured Crisis Center or a Community
3 Comprehensive Addiction Recovery Center;

4 29. "Oklahoma High Cost Fund" means the fund established by the
5 Commission in Cause Nos. PUD 950000117 and 950000119;

6 30. "Oklahoma Lifeline Fund" or "(OLF)" means the fund
7 established and required to be implemented by the Commission
8 pursuant to Section 139.105 of this title;

9 31. "Oklahoma Universal Service Fund" or "(OUSF)" means the
10 fund established and required to be implemented by the Commission
11 pursuant to Section 139.106 of this title;

12 32. "Oklahoma Universal Service Fund Beneficiary" means an
13 entity eligible to receive Special Universal Services support as
14 provided for in subsection A of Section ~~6 of this act~~ 139.109.1 of
15 this title;

16 33. "Prediscount amount" means the total cost of Special
17 Universal Services, selected pursuant to the procedures set out in
18 subparagraph 5 of subsection B of Section ~~6 of this act~~ 139.109.1 of
19 this title, before charges are reduced by federal or state funding
20 support. The prediscout amount shall not include fees or taxes;

21 34. "Prepaid wireless telecommunications service" means prepaid
22 wireless telecommunications service as the term is defined in
23 paragraph 7 of Section 2862 of Title 63 of the Oklahoma Statutes;

24

1 35. "Person" means any individual, partnership, association,
2 corporation, governmental entity, public or private organization of
3 any character, or any other entity;

4 ~~35.~~ 36. "Primary universal service" means an access line and
5 dial tone provided to the premises of residential or business
6 customers which provides access to other lines for the transmission
7 of two-way switched or dedicated communication in the local calling
8 area without additional, usage-sensitive charges, including:

- 9 a. a primary directory listing,
- 10 b. dual-tone multifrequency signaling,
- 11 c. access to operator services,
- 12 d. access to directory assistance services,
- 13 e. access to telecommunications relay services for the
14 deaf or hard-of-hearing,
- 15 f. access to nine-one-one service where provided by a
16 local governmental authority or multijurisdictional
17 authority, and
- 18 g. access to interexchange long distance services;

19 ~~36.~~ 37. "Public library" means a library or library system that
20 is freely open to all persons under identical conditions and which
21 is supported in whole or in part by public funds. Public library
22 shall not include libraries operated as part of any university,
23 college, school museum, the Oklahoma Historical Society or county
24 law libraries;

1 ~~37.~~ 38. "Public school" means all free schools supported by
2 public taxation, and shall include grades prekindergarten through
3 twelve and technology center schools that provide vocational and
4 technical instruction for high school students who attend the
5 technology center school on a tuition-free basis. Public school
6 shall not include private schools, home schools or virtual schools;

7 ~~38.~~ 39. "Regulated telecommunications service" means the
8 offering of telecommunications for a fee directly to the public
9 where the rates for such service are regulated by the Commission.
10 Regulated telecommunications service does not include the provision
11 of nontelecommunications services, including, but not limited to,
12 the printing, distribution, or sale of advertising in telephone
13 directories, maintenance of inside wire, customer premises
14 equipment, and billing and collection service, nor does it include
15 the provision of wireless telephone service, enhanced service, and
16 other unregulated services, including services not under the
17 jurisdiction of the Commission, and services determined by the
18 Commission to be competitive;

19 ~~39.~~ 40. "Special Universal Services" means the
20 telecommunications services supported by the OUSF which are
21 furnished to public schools, public libraries and eligible health
22 care entities as provided for in Section ~~6 of this act~~ 139.109.1 of
23 this title;

1 ~~40.~~ 41. "Tariff" means all or any part of the body of rates,
2 tolls, charges, classifications, and terms and conditions of service
3 relating to regulated services offered, the conditions under which
4 offered, and the charges therefor, which have been filed with the
5 Commission and have become effective;

6 ~~41.~~ 42. "Telecommunications" means the transmission, between or
7 among points specified by the user, of information of the user's
8 choosing, without change in the form or content of the information
9 as sent and received;

10 ~~42.~~ 43. "Telecommunications carrier" means a person that
11 provides telecommunications service in this state;

12 ~~43.~~ 44. "Telecommunications service" means the offering of
13 telecommunications for a fee;

14 ~~44.~~ 45. "Telemedicine service" means the practice of health
15 care delivery, diagnosis, consultation and treatment, including but
16 not limited to the transfer of medical data or exchange of medical
17 education information by means of audio, video or data
18 communications. Telemedicine service shall not mean a consultation
19 provided by telephone or facsimile machine;

20 ~~45.~~ 46. "Universal service area" has the same meaning as the
21 term "service area" as defined in 47 U.S.C., Section 214(e)(5);

22 ~~46.~~ 47. "WAN" means a wide-area network that exists over a
23 large-scale geographical area. A WAN connects different smaller
24 networks, including local area networks and metro area networks,

1 which ensures that computers and users in one location can
2 communicate with computers and users in other locations;

3 ~~47.~~ 48. "Wire center" means a geographic area normally served
4 by a central office; and

5 ~~48.~~ 49. "Wireless telephone service" means radio communication
6 service carried on between mobile stations or receivers and land
7 stations and by mobile stations communicating among themselves and
8 which permits a user generally to receive a call that originates or
9 terminates on the public switched network or its functional
10 equivalent regardless of the radio frequencies used.

11 SECTION 2. AMENDATORY 17 O.S. 2011, Section 139.106, as
12 amended by Section 4, Chapter 270, O.S.L. 2016 (17 O.S. Supp. 2017,
13 Section 139.106), is amended to read as follows:

14 Section 139.106. A. There is hereby created within the
15 Corporation Commission the "Oklahoma Universal Service Fund" (OUSF).
16 Not later than January 31, 1998, the Corporation Commission shall
17 promulgate rules implementing the OUSF so that, consistent with the
18 provisions of this section, funds can be made available to eligible
19 local exchange telecommunications service providers and, consistent
20 with Section ~~6 of this act~~ 139.109.1 of this title, funds can be
21 made available to eligible providers.

22 B. The OUSF shall be funded and administered to promote and
23 ensure the availability of primary universal services, at rates that
24 are reasonable and affordable and Special Universal Services, and to

1 provide for reasonably comparable services at affordable rates in
2 rural areas as in urban areas. The OUSF shall provide funding to
3 local exchange telecommunications service providers that meet the
4 eligibility criteria established in this section and to eligible
5 providers that meet the eligibility criteria established in Section
6 ~~6 of this act~~ 139.109.1 of this title for the provision of Special
7 Universal Services.

8 C. The OUSF shall be funded by a charge paid by all
9 contributing providers as provided for in Section 139.107 of this
10 title, ~~at a level sufficient to maintain universal service.~~
11 Effective January 1, 2019, the OUSF shall be capped at a level not
12 to exceed eighty percent (80%) of the total charges collected in
13 calendar year 2017. The OUSF fund cap will be reduced to sixty
14 percent (60%) of the total charges collected in calendar year 2017
15 effective January 1, 2020; to forty percent (40%) of the total
16 charges collected in calendar year 2017 effective January 1, 2021;
17 and to twenty percent (20%) of the total charges collected in
18 calendar year 2017 effective January 1, 2022. The OUSF will
19 terminate effective January 1, 2023.

20 D. 1. The procedure for eligible local exchange
21 telecommunications service providers and eligible providers to seek
22 and obtain OUSF and Oklahoma Lifeline Fund (OLF) funding shall be as
23 set forth in this subsection.

24

1 2. Within ninety (90) days after receipt of a request for funds
2 from an eligible local exchange telecommunications service provider
3 or an eligible provider, the Administrator as defined pursuant to
4 Section 139.102 of this title shall independently review and
5 determine the accuracy of the request and advise the eligible local
6 exchange telecommunications service provider or eligible provider
7 requesting the funds of the determination of eligibility made by the
8 Administrator. The determination shall detail the amount of funding
9 recoverable from the OUSF and OLF. ~~Failure by the Administrator to~~
10 ~~issue a determination within the ninety-day period means the request~~
11 ~~for OUSF or OLF reimbursement is deemed approved on a permanent~~
12 ~~basis, and funding shall be paid within forty-five (45) days without~~
13 ~~an order of the Commission.~~ If a request for reconsideration of the
14 determination of the Administrator is not filed as provided for in
15 paragraph 5 of this subsection, the determination shall be deemed
16 final on the sixteenth day following the date of the determination.
17 The OUSF funding as provided in the determination of the
18 Administrator shall be paid to the eligible local exchange
19 telecommunications service provider or eligible provider within
20 forty-five (45) days without an order of the Commission.

21 3. For requests seeking OUSF funds pursuant to Section ~~6 of~~
22 ~~this act~~ 139.109.1 of this title, provided that an OUSF approval
23 funding letter has been issued as otherwise provided for in the
24 Oklahoma Telecommunications Act of 1997, the eligible provider

1 shall, within sixty (60) days of the start of service, submit to the
2 Administrator a request for reimbursement from the OUSF. The
3 Administrator shall have sixty (60) days to issue a determination to
4 the Oklahoma Universal Service Fund Beneficiary and eligible
5 provider detailing the amount of funding recoverable from the OUSF.
6 Failure by the Administrator to issue a determination within the
7 sixty-day period means the request for OUSF reimbursement is
8 approved as submitted. The determination shall detail the amount of
9 funding recoverable from the OUSF. ~~Failure by the Administrator to~~
10 ~~issue a determination shall mean the request for OUSF reimbursement~~
11 ~~is deemed approved on a permanent basis, and funding shall be paid~~
12 ~~within forty-five (45) days without an order of the Commission.~~ If
13 a request for reconsideration of the determination of the
14 Administrator is not filed as provided for in paragraph 5 of this
15 subsection, the determination shall be deemed final on the sixteenth
16 day following the date of the determination. The OUSF funding as
17 provided in the determination of the Administrator shall be paid to
18 the eligible provider within forty-five (45) days without an order
19 of the Commission.

20 4. A request for reimbursement as provided for in paragraph 3
21 of this subsection shall be in the form as determined by the
22 Administrator. The form shall be posted by the Administrator no
23 later than one hundred twenty (120) days prior to the start of the
24 funding year to become effective July 1 for reimbursement requests

1 submitted for eligible services provided during the funding year.
2 Any party may file an objection to a posted form with the Commission
3 within fifteen (15) days of the posting. The Commission shall have
4 thirty (30) days to issue a final order on the objection to the
5 form. If the Commission does not issue a final order on the
6 objection within thirty (30) days, the objection shall be deemed
7 approved.

8 5. Any affected party, meaning the eligible local exchange
9 telecommunications service provider, the eligible provider, any
10 service provider that pays into the OUSF, the Oklahoma Universal
11 Service Fund Beneficiary or the Attorney General, shall have fifteen
12 (15) days to file a request for reconsideration by the Commission of
13 the determination made by the Administrator. ~~If the Commission does
14 not issue a final order within thirty (30) days from the date the
15 request for reconsideration is filed, the request shall be deemed
16 approved on an interim basis subject to refund with interest. The
17 interest rate on a refund shall be at a rate of not more than the
18 interest rate established by the Commission on customer deposits and
19 shall accrue for a period not to exceed ninety (90) days from the
20 date the funds were received by the requesting eligible local
21 exchange telecommunications service provider or eligible provider.
22 If the Commission does not issue a final order within one hundred
23 twenty (120) days of the filing of the request for reconsideration,
24 then the request for OUSF or OLF funding as filed shall be deemed~~

1 ~~approved on a permanent basis without order of the Commission, and~~
2 ~~the OUSF and OLF funding shall be paid without an order of the~~
3 ~~Commission within forty-five (45) days.~~

4 6. The term "final order" as used in this subsection shall mean
5 an order which resolves all issues associated with the request for
6 OUSF or OLF funding.

7 E. Contributing providers may, at their option, recover from
8 their retail customers the OUSF charges paid by the contributing
9 provider. The OUSF charges shall not be subject to state or local
10 taxes or franchise fees.

11 F. The Commission shall not, prior to implementation and the
12 availability of funds from the OUSF, require local exchange
13 telecommunications service providers to reduce rates for intrastate
14 access services.

15 G. Any eligible local exchange telecommunications service
16 provider may request funding from the OUSF as necessary to maintain
17 rates for primary universal services that are reasonable and
18 affordable. As used in this section, "rates for primary universal
19 services that are reasonable and affordable" means a rate for basic
20 local exchange service that is, at a minimum, equivalent to the rate
21 charged by the ILEC in urban areas of Oklahoma. No recovery may be
22 sought from the OUSF unless the eligible local exchange
23 telecommunications service provider is currently charging a rate for
24 primary universal service that is reasonable and affordable. OUSF

1 funding shall be provided to eligible local exchange
2 telecommunications service providers for the following:

3 1. To reimburse eligible local exchange telecommunications
4 service providers for the reasonable investments and expenses to
5 provide primary universal service not recovered from the eligible
6 local exchange telecommunications service provider's basic local
7 exchange service rate, the federal universal service fund or any
8 other state or federal government fund ~~incurred in providing~~
9 universal services;

10 2. Infrastructure expenditures or costs attributable to primary
11 universal service incurred in response to facility or service
12 requirements established by a legislative, regulatory, or judicial
13 authority or other governmental entity mandate that are not
14 otherwise recovered from the eligible local exchange
15 telecommunications service provider's basic local service rate, the
16 telecommunications service provider's basic local service rate, the
17 federal universal service fund or any other state or federal
18 government fund used for the purpose of subsidizing universal
19 services;

20 3. For reimbursement of the Lifeline Service Program credits as
21 set forth in Section 139.105 of this title;

22 4. To reimburse eligible local exchange telecommunications
23 service providers for providing the Special Universal Services as
24 set forth in Section ~~6 of this act~~ 139.109.1 of this title;

1 5. ~~To defray the costs of administering the OUSF, including the~~
2 ~~costs of administration, processing, and an annual independent~~
3 ~~audit. The annual audit shall not be performed by the Commission~~
4 ~~staff; and~~

5 6. For other purposes deemed necessary by the Commission to
6 preserve and advance universal service.

7 H. In identifying and measuring the costs of providing primary
8 universal services, exclusively for the purpose of determining OUSF
9 funding levels under this section, the eligible local exchange
10 telecommunications service provider serving less than seventy-five
11 thousand access lines shall, at its option:

12 1. Calculate such costs by including all embedded investments
13 and expenses incurred by the eligible local exchange
14 telecommunications service provider in the provision of primary
15 universal service, and may identify high-cost areas within the local
16 exchange area it serves and perform a fully distributed allocation
17 of embedded costs and identification of associated primary universal
18 service revenue. Such calculation may be made using fully
19 distributed Federal Communications Commission parts 32, 36 and 64
20 costs, if such parts are applicable. To the extent such costs
21 include costs attributable to the provision of services other than
22 primary universal service, the costs must be allocated to all
23 services, and recovery from the OUSF be allowed only for that
24 portion attributable to primary universal service. The high-cost

1 area shall be no smaller than a single exchange, wire center, or
2 census block group, chosen at the option of the eligible local
3 exchange telecommunications service provider;

4 2. Adopt the cost studies approved by the Commission for a
5 local exchange telecommunications service provider that serves
6 seventy-five thousand or more access lines; ~~or~~

7 3. Adopt such other costing or measurement methodology as may
8 be established for such purpose by the Federal Communications
9 Commission pursuant to Section 254 of the federal Telecommunications
10 Act of 1996; or

11 4. The Administrator and Commission shall have authority to
12 request additional information in reviewing the application, and any
13 request for reconsideration.

14 I. In identifying and measuring the cost of providing primary
15 universal services, and exclusively for the purpose of determining
16 OUSF funding levels pursuant to this section, each ILEC which serves
17 seventy-five thousand or more access lines and each CLEC shall
18 identify high-cost areas within the local exchange and perform a
19 cost study using a Commission-approved methodology from those
20 identified in subsection H of this section. The high-cost area
21 shall be no smaller than a single exchange, wire center or census
22 block group chosen at the option of the eligible ILEC or CLEC. ~~If~~
23 ~~the Commission fails to approve the selected methodology within one~~
24

1 ~~hundred twenty (120) days of the filing of the selection, the~~
2 ~~selected methodology shall be deemed approved.~~

3 J. The Commission may by rule expand primary universal services
4 to be supported by the OUSF, after notice and hearing. The
5 Administrator, upon approval of the Commission, shall determine the
6 level of additional OUSF funding to be made available to an eligible
7 local exchange telecommunications service provider which is required
8 to recover the cost of any expansion of universal services.

9 K. 1. ~~Each request for OUSF funding by an eligible ILEC~~
10 ~~serving less than seventy-five thousand access lines shall be~~
11 ~~premised upon the occurrence of one or more of the following:~~

12 a. ~~in the event of a Federal Communications Commission~~
13 ~~order, rule or policy, the effect of which is to~~
14 ~~decrease the federal universal service fund revenues~~
15 ~~of an eligible local exchange telecommunications~~
16 ~~service provider, the eligible local exchange~~
17 ~~telecommunications service provider shall recover the~~
18 ~~decreases in revenues from the OUSF,~~

19 b. ~~if, as a result of changes required by existing or~~
20 ~~future federal or state regulatory rules, orders, or~~
21 ~~policies or by federal or state law, an eligible local~~
22 ~~exchange telecommunications service provider~~
23 ~~experiences a reduction in revenues or an increase in~~
24 ~~costs, it shall recover the revenue reductions or cost~~

1 ~~increases from the OUSF, the recovered amounts being~~
2 ~~limited to the net reduction in revenues or cost~~
3 ~~increases, or~~

4 ~~c. if, as a result of changes made as required by~~
5 ~~existing or future federal or state regulatory rules,~~
6 ~~orders, or policies or by federal or state law, an~~
7 ~~eligible local exchange telecommunications service~~
8 ~~provider experiences a reduction in costs, upon~~
9 ~~approval by the Commission, the provider shall reduce~~
10 ~~the level of OUSF funding it receives to a level~~
11 ~~sufficient to account for the reduction in costs.~~

12 ~~2. The receipt of OUSF funds for any of the changes referred to~~
13 ~~in this subsection shall not be conditioned upon any rate case or~~
14 ~~earnings investigation by the Commission. The Commission shall,~~
15 ~~pursuant to subsection D of this section, approve the request for~~
16 ~~payment or adjustment of payment from the OUSF based on a comparison~~
17 ~~of the total annual revenues received from the sources affected by~~
18 ~~the changes described in paragraph 1 of this subsection by the~~
19 ~~requesting eligible local exchange telecommunications service~~
20 ~~provider during the most recent twelve (12) months preceding the~~
21 ~~request, and the reasonable calculation of total annual revenues or~~
22 ~~cost increases which will be experienced after the changes are~~
23 ~~implemented by the requesting eligible local exchange~~
24 ~~telecommunications service provider.~~

1 ~~L. Upon request for OUSF funding by an ILEC serving seventy~~
2 ~~five thousand or more access lines or a CLEC, the Commission shall~~
3 ~~after notice and hearing make a determination of the level of OUSF~~
4 ~~funds, if any, that the provider is eligible to receive for the~~
5 ~~purposes contained in subsection K of this section. If the~~
6 ~~Commission fails to make a determination within one hundred twenty~~
7 ~~(120) days of the filing of the request, the request for funding~~
8 ~~shall be deemed approved~~ No request for primary universal service
9 funding shall include funding for any period of time more than
10 twelve months prior to the date of the application for OUSF funding.

11 L. No recurring funding is allowed for primary universal
12 service funding. In every primary universal service case in which
13 recurring funding is being paid on the effective date of this act,
14 such recurring funding shall end no later than ninety (90) days from
15 the effective date of this act.

16 M. In every case in which primary universal service funding is
17 required, the applicant must first request alternative funding from
18 all available sources, including requests for a waiver of any cap on
19 federal universal service funding, and include evidence of such
20 requests as an attachment to its OUSF application. If alternative
21 funding is not available from any other source, or cannot be
22 requested prior to the date of the application, the applicant shall
23 provide a detailed explanation of why no alternative funding is
24 available, or cannot be requested prior to the date of the OUSF

1 application, and such funding must be requested on the earliest
2 possible date it can be requested, and applicant must include that
3 date in its OUSF application. Failure to comply with these
4 requirements will result in immediate denial of the application.

5 M. N. The incumbent local exchange telecommunications service
6 provider, its successors and assigns, which owned, maintained and
7 provided facilities for universal service within a local exchange
8 area on January 1, 1996, shall be the local exchange
9 telecommunications service provider eligible for OUSF funding within
10 the local exchange area, except as otherwise provided for in ~~this~~
11 ~~act~~ the Oklahoma Telecommunications Act of 1997.

12 N. O. 1. Where the incumbent local exchange telecommunications
13 service provider receives or is eligible to receive monies from the
14 OUSF, except as otherwise provided in this section, the Commission,
15 after notice and hearing, may designate other local exchange
16 telecommunications service providers to be eligible for the funding,
17 provided:

18 a. the other local exchange telecommunications service
19 provider is certificated by the Commission to provide
20 and offers the primary universal services supported by
21 the OUSF to all customers in the universal service
22 area designated by the Commission, using its own
23 facilities, or a combination of its own facilities and
24 the resale of the services or facilities of another.

1 Universal service support under this subsection shall
2 not begin until the other local exchange
3 telecommunications service provider has facilities in
4 place,

5 b. the other local exchange telecommunications service
6 provider may only receive funding for the portion of
7 the facilities that it owns, maintains, and uses for
8 regulated services,

9 c. the other local exchange telecommunications service
10 provider shall not receive OUSF funding at a level
11 higher than the level of funding the incumbent local
12 exchange telecommunications service provider is
13 eligible to receive for the same area if the incumbent
14 local exchange telecommunications service provider is
15 also providing service in the same area; provided, the
16 cost of any cost studies required to be performed
17 shall be borne by the party requesting such studies,
18 unless the party performing the study utilizes the
19 study for its own benefit,

20 d. the other local exchange telecommunications service
21 provider advertises the availability and charges for
22 services it provides through a medium of general
23 distribution, and
24

1 e. it is determined by the Commission that the
2 designation is in the public interest and the other
3 local exchange telecommunications service provider is
4 in compliance with all Commission rules for which a
5 waiver has not been granted.

6 2. Notwithstanding the criteria set forth in this section for
7 designation as an eligible local exchange telecommunications service
8 provider, a commercial mobile radio service provider may, after
9 notice and hearing, seek reimbursement from the OUSF for the
10 provision of services supported by the OUSF, and any
11 telecommunications carrier may seek reimbursement from the OUSF for
12 the provision of Lifeline Service consistent with Section 139.105 of
13 this title and for the provision of Special Universal Services
14 consistent with Section ~~6 of this act~~ 139.109.1 of this title.

15 ~~Q.~~ P. In exchanges or wire centers where the Commission has
16 designated more than one local exchange telecommunications service
17 provider as eligible for OUSF funding, the Commission shall permit
18 one or more of the local exchange telecommunications service
19 providers in the area to relinquish the designation as a local
20 exchange telecommunications service provider eligible for OUSF
21 funding in a manner consistent with Section 214(e)(4) of the federal
22 Telecommunications Act of 1996, upon a finding that at least one
23 eligible local exchange telecommunications service provider shall
24

1 continue to assume the carrier-of-last-resort obligations throughout
2 the area.

3 ~~P.~~ Q. For any area served by an incumbent local exchange
4 telecommunications service provider which serves less than seventy-
5 five thousand access lines within the state, only the incumbent
6 local exchange telecommunications service provider shall be eligible
7 for OUSF funding except:

8 1. Other eligible telecommunications carriers which provide
9 Special Universal Services or Lifeline Service shall be eligible to
10 request and receive OUSF funds in the same manner as the incumbent
11 local exchange telecommunications service provider in the same area
12 pursuant to the Oklahoma Telecommunications Act of 1997;

13 2. The incumbent local exchange telecommunications service
14 provider may elect to waive the right to be the only eligible local
15 exchange telecommunications service provider within the local
16 exchange area by filing notice with the Commission; or

17 3. When the Commission, after notice and hearing, makes a
18 determination that it is in the public interest that another local
19 exchange telecommunications service provider should also be deemed a
20 carrier of last resort and be eligible to receive OUSF funding in
21 addition to the incumbent local exchange telecommunications service
22 provider. It shall not be in the public interest to designate
23 another local exchange telecommunications service provider as being
24 a carrier of last resort and eligible to receive OUSF funding if

1 such designation would cause a significant adverse economic impact
2 on users of telecommunications services generally or if the other
3 carrier refuses to seek and accept carrier-of-last-resort
4 obligations throughout the universal service area as designated by
5 the Commission. The other local exchange telecommunications service
6 provider shall not receive OUSF funding at a level higher than the
7 level of funding the incumbent local exchange telecommunications
8 service provider is eligible to receive for the same area if the
9 incumbent local exchange telecommunications service provider is also
10 providing service in the same area and the other local exchange
11 telecommunications service provider meets the requirements of
12 subparagraphs a, b, d and e of paragraph 1 of subsection N of this
13 section.

14 SECTION 3. AMENDATORY 17 O.S. 2011, Section 139.107, as
15 amended by Section 5, Chapter 270, O.S.L. 2016 (17 O.S. Supp. 2017,
16 Section 139.107), is amended to read as follows:

17 Section 139.107. A. The Oklahoma Lifeline Fund (OLF) and the
18 Oklahoma Universal Service Fund (OUSF) shall be funded in a
19 competitively neutral manner not inconsistent with federal law by
20 all contributing providers. The funding from each contributing
21 provider shall be based on the total intrastate retail Oklahoma
22 Voice over Internet Protocol (VoIP) revenues and intrastate
23 telecommunications revenues, from both regulated and unregulated
24 services, of the contributing provider, hereinafter referred to as

1 assessed revenues, as a percentage of all assessed revenues of the
2 contributing providers, or such other assessment methodology not
3 inconsistent with federal law. For the purposes of this section,
4 the terms "intrastate telecommunications revenues" and "assessed
5 revenues" mean all revenues received from the OUSF, the OLF, and the
6 Oklahoma High Cost Fund. VoIP services shall be assessed only as
7 provided for in the decision of the Federal Communications
8 Commission, FCC 10-185, released November 5, 2010, or such other
9 assessment methodology that is not inconsistent with federal law.
10 The Commission may after notice and hearing modify the contribution
11 methodology for the OUSF and OLF, provided the new methodology is
12 not inconsistent with federal law.

13 ~~B. The Corporation Commission shall establish the OLF~~
14 ~~assessment and the OUSF assessment at a level sufficient to recover~~
15 ~~costs of administration and payments for OUSF and OLF requests for~~
16 ~~funding as provided for in the Oklahoma Telecommunications Act of~~
17 ~~1997. Effective January 1, 2019, the OLF shall be capped at a level~~
18 ~~not to exceed eighty percent (80%) of the total charges collected in~~
19 ~~calendar year 2017. The OLF fund cap will be reduced to sixty~~
20 ~~percent (60%) of the total charges collected in calendar year 2017~~
21 ~~effective January 2020; to forty percent (40%) of the total charges~~
22 ~~collected in calendar year 2017 effective January 1, 2021; and to~~
23 ~~twenty percent (20%) of the total charges collected in calendar year~~
24 ~~2017 effective January 1, 2022. The OLF will terminate effective~~

1 January 1, 2023. The administration of the OLF and OUSF shall be
2 provided by the Public Utility Division of the Commission. The
3 administrative function shall be headed by the Administrator as
4 defined in Section 139.102 of this title. The Administrator shall
5 be an independent evaluator. The Administrator may enter into
6 contracts to assist with the administration of the OLF and OUSF.

7 C. If the Commission determines after notice and hearing that a
8 contributing provider has acted in violation of this section, in
9 addition to the other enforcement powers of the Commission,
10 including its contempt powers and authority to revoke a
11 telecommunications service provider's certificate of convenience and
12 necessity, the Commission may bring an action on behalf of the OLF
13 or the OUSF, in a court of competent jurisdiction that the
14 Commission deems appropriate, to recover any unpaid fees and
15 assessments the Commission has determined are due and payable,
16 including interest, administrative and adjudicative costs, and
17 attorney fees. Upon collection of the assessments, fees and costs,
18 the Administrator shall pay the costs of the actions and deposit the
19 remaining funds in the OLF or the OUSF as appropriate.

20 D. The monies deposited in the OLF, the OUSF and the Oklahoma
21 High Cost Fund are public funds and must be distributed and used for
22 the specific purposes of each fund and no other. The monies shall
23 at no time become ~~monies of the state and shall not~~ become part of
24 the general budget of the Corporation Commission or any other state

1 agency. Except as otherwise authorized by the Oklahoma
2 Telecommunications Act of 1997, no monies from the OLF, the OUSF, or
3 the Oklahoma High Cost Fund shall be transferred for any purpose to
4 any other state agency or any account of the Corporation Commission
5 or be used for the purpose of contracting with any other state
6 agency or reimbursing any other state agency for any expense.
7 Payments from the OLF, the OUSF, and the Oklahoma High Cost Fund
8 shall not become or be construed to be an obligation of this state.
9 No claims for reimbursement from the OLF, the OUSF or the Oklahoma
10 High Cost Fund shall be paid with ~~state monies~~ any public funds
11 other than the monies.

12 E. 1. The OUSF charge applicable to prepaid wireless
13 telecommunications service shall be collected by the seller from the
14 consumer on each retail transaction in accordance with the
15 procedures established under Sections 2865 and 2867 of Title 62 of
16 the Oklahoma Statutes and is the only OUSF imposition that may be
17 applied to prepaid wireless telecommunications service. The OUSF
18 charge shall be remitted by the seller to the Tax Commission using
19 procedures established by Sections 2865 and 2867 of Title 63 of the
20 Oklahoma Statutes.

21 2. The rate of the OUSF charge applicable to prepaid wireless
22 telecommunications service shall be converted from a percentage to a
23 flat transaction amount by multiplying the percentage rate
24 established by the Commission by the inverse of the Federal

1 Communications Commission "safe harbor" percentage for determining
2 the interstate portion of a fixed monthly wireless charge, and then
3 multiplying the result times Twenty-five Dollars (\$25.00). Such
4 amount shall be rounded to the nearest whole cent.

5 3. Any rate change approved by the Commission shall be applied
6 on July 1 of a calendar year. The Commission shall notify the Tax
7 Commission within fifteen (15) days of final approval of any change
8 in the OUSF rate applicable to prepaid wireless telecommunications
9 service. No more than one rate change shall be permitted in a
10 calendar year.

11 SECTION 4. AMENDATORY Section 6, Chapter 270, O.S.L.
12 2016 (17 O.S. Supp. 2017, Section 139.109.1), is amended to read as
13 follows:

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

16 1. Each eligible healthcare entity in this state as defined in
17 Section 139.102 of ~~Title 17 of the Oklahoma Statutes~~ this title
18 shall be eligible to receive Special Universal Services for
19 telemedicine providers. Special Universal Services for telemedicine
20 providers shall include the provision of bandwidth per standards as
21 recommended by the Federal Communications Commission sufficient for
22 providing telemedicine services including the telemedicine line,
23 reasonable installation and network termination equipment owned and
24

1 operated by the eligible provider that is necessary to provide the
2 eligible telemedicine service;

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

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

7 3. Each public library as defined in Section 139.102 of ~~Title~~
8 ~~17 of the Oklahoma Statutes~~ this title shall be eligible to receive
9 Special Universal Services for libraries. Special Universal
10 Services for libraries shall include the E-rate Eligible Services
11 List ("ESL") for Category One services as determined by the Federal
12 Communications Commission for the applicable funding year or, in the
13 absence of such a list, as published by the Universal Services
14 Administrative Company. In the event no ESL is available from the
15 FCC or USAC for the applicable funding year, eligible services will
16 be those on the ESL for the last funding year for which an ESL was
17 available. Special Universal Services shall include the provision
18 of bandwidth sufficient for providing library services per standards
19 as recommended by the Federal Communications Commission including
20 Internet access lines, reasonable installation and network
21 termination equipment owned and operated by the eligible provider
22 that is necessary to provide the eligible service. Special
23 Universal Services shall not include voice services that use
24 separate lines or have allocated bandwidth. The Commission may

1 modify the services considered to be Special Universal Services
2 pursuant to rule, after notice and hearing.

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

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

1 funds, the OUSF Beneficiary shall be exempt from the requirement to
2 obtain funding from another state and/or federal fund designed to
3 support Special Universal Services set forth in this subsection.
4 The OUSF Beneficiary must provide evidence of such exemption as part
5 of the funding request.

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

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

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

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

22 b. the Oklahoma Universal Service Fund Beneficiary shall
23 not limit bidders based upon technology,
24

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

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

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

19 7. For purposes of this ~~act~~ section, "lowest cost reasonable
20 qualifying bid" means a bid that:

21 a. represents the lowest total cost proposal including
22 monthly recurring and nonrecurring charges for
23 eligible services,
24

- 1 b. is reasonable to meet the needs of the Oklahoma
2 Universal Service Fund Beneficiary as listed in the
3 request for bids,
4 c. is submitted during the same competitive bidding
5 period as the awarded bid,
6 d. is for a bandwidth within the range requested for bid
7 and selected by the Oklahoma Universal Service Fund
8 Beneficiary,
9 e. is for the same contract term as the bid that was
10 selected by the Oklahoma Universal Service Fund
11 Beneficiary,
12 f. meets the requirements specified in the request for
13 bid by the Oklahoma Universal Service Fund
14 Beneficiary, and
15 g. was the result of a fair and open competitive bidding
16 process as defined in this ~~act~~ section.

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

22 9. For eligible services associated with an Oklahoma Universal
23 Service Fund Beneficiary that does not competitively bid in
24

1 compliance with this ~~act~~ section, the credit amount shall be
2 determined at the discretion of the Administrator.

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

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

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

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

24

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

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

7 a. the Administrator shall establish an administrative
8 approval process to be initiated by the Oklahoma
9 Universal Service Fund Beneficiary in a timely fashion
10 for the purpose of determining eligible services and
11 credit amounts for the upcoming funding year. The
12 administrative preapproval submission process shall
13 include all necessary forms and instructions,
14 hereinafter referred to as the "OUSF administrative
15 preapproval request". The Administrator shall
16 determine the form for the OUSF administrative
17 preapproval requests, which shall require the Oklahoma
18 Universal Service Fund Beneficiary to provide a
19 detailed description of how the funds will be used and
20 to describe any federal funding that has been sought
21 for the same purpose, including the amount of any
22 amount granted. The form shall be posted on the
23 Commission website no later than June 30 of each year
24 to become effective for any OUSF administrative

1 preapproval requests submitted after August 31 of that
2 year. Any party may file an objection to the form
3 with the Commission within fifteen (15) days of
4 posting. The Commission shall issue a final order on
5 the objection to the form within thirty (30) days,

6 b. the Administrator shall issue an approval funding
7 letter to the Oklahoma Universal Service Fund
8 Beneficiary and the eligible provider within ninety
9 (90) days of receipt of a properly completed OUSF
10 administrative preapproval request. Failure by the
11 Administrator to issue an approval funding letter
12 within the ninety-day period means the OUSF
13 administrative preapproval request submitted by the
14 Oklahoma Universal Service Fund Beneficiary is
15 approved as submitted and the subsequent request for
16 reimbursement submitted by the eligible provider which
17 is consistent with the information submitted in the
18 OUSF administrative preapproval request shall be
19 approved as submitted,

20 c. the approval funding letter shall inform the Oklahoma
21 Universal Service Fund Beneficiary of the preapproved
22 services and associated credit amount for the
23 applicable funding year. The amount of OUSF funding
24 preapproved under this subsection may be subject to

1 adjustments based on the amount of support received
2 from other sources, if any, and adjustments to pricing
3 that may occur between the time of preapproval and
4 installation of service,

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

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

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

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

20 (4) competitive bidding documentation for the
21 relevant funding year,

22 e. issuance of an OUSF approval funding letter by the
23 Administrator shall occur without a Commission order,
24

- 1 f. OUSF administrative preapproval requests not submitted
2 by June 30 prior to the applicable funding year shall
3 be processed by the Administrator on a first-in-first-
4 out basis, and
- 5 g. after a preapproval funding letter has been issued, an
6 OUSF Beneficiary may submit a new administrative
7 preapproval request to provide corrections or
8 additional information per program rules issued by the
9 Commission.

10 3. The eligible provider reimbursement process shall be as
11 follows:

- 12 a. requests for reimbursement shall be submitted per
13 procedures as set forth in subsection D of Section
14 139.106 of ~~Title 17 of the Oklahoma Statutes~~ this
15 title,
- 16 b. the Administrator shall post the monthly payout report
17 to the Commission website,
- 18 c. funding for eligible services, including federal
19 funding, shall not exceed actual eligible expenses,
- 20 d. any change in cost of eligible services during the
21 funding year shall be reported by the eligible
22 provider to the OUSF and:
- 23 (1) all decreases in cost shall be deemed approved
24 until the next eligible bidding period and all

1 cost savings shall be properly allocated to the
2 OUSF and the Oklahoma Universal Service Fund
3 Beneficiary, and

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

6 e. issuance of a determination by the Administrator shall
7 not require a Commission order.

8 SECTION 5. AMENDATORY Section 2, Chapter 324, O.S.L.

9 2016 (63 O.S. Supp. 2017, Section 2862), is amended to read as
10 follows:

11 Section 2862. As used in the Oklahoma 9-1-1 Management
12 Authority Act:

13 1. "Authority" means the Oklahoma 9-1-1 Management Authority
14 created in Section ~~3 of this act~~ 2863 of this title;

15 2. "Combined fee" means the sum of the prepaid wireless nine-
16 one-one (9-1-1) fee and the Oklahoma Universal Service Fund charge;

17 3. "Governing body" means the board of county commissioners of
18 a county, the city council, tribal authority or other governing body
19 of a municipality, or a combination of such boards, councils or
20 other municipal governing bodies including county or municipal
21 beneficiary public trusts, or other public trusts which shall have
22 an administering board. A governing body made up of two or more
23 governmental entities shall have a board consisting of not less than
24 three members and shall consist of at least one member representing

1 each governmental entity, appointed by the governing body of each
2 participating governmental entity, as set forth in the agreement
3 forming the board. The members of the board shall serve for terms
4 of not more than three (3) years as set forth in the agreement.
5 Members may be appointed to serve more than one term. The names of
6 the members of the governing body board and the appointing authority
7 of each member shall be maintained in the office of the county clerk
8 in the county or counties in which the system operates, along with
9 copies of the agreement forming the board and any amendments to that
10 agreement;

11 ~~3.~~ 4. "Next-generation 9-1-1" or "NG9-1-1" means an:

- 12 a. IP-based system comprised of hardware, software, data,
13 and operational policies and procedures that:
- 14 (1) provides standardized interfaces from emergency
15 call and message services to support emergency
16 communications,
 - 17 (2) processes all types of emergency calls, including
18 voice, text, data and multimedia information,
 - 19 (3) acquires and integrates additional emergency call
20 data useful to call routing and handling,
 - 21 (4) delivers the emergency calls, messages and data
22 to the appropriate public safety answering point
23 and other appropriate emergency entities,
- 24

1 (5) supports data or video communications needs for
2 coordinated incident response and management, and
3 (6) provides broadband service to public safety
4 answering points or other first responder
5 entities, or

6 b. IP-based system comprised of hardware, software, data
7 and operational policies and procedures that conforms
8 with subsequent amendments made to the definition of
9 Next Generation 9-1-1 services in Public Law 112-96;

10 ~~4.~~ 5. "9-1-1 emergency telephone service" means any telephone
11 system whereby telephone subscribers may utilize a three-digit
12 number (9-1-1) for reporting an emergency to the appropriate public
13 agency providing law enforcement, fire, medical or other emergency
14 services, including ancillary communications systems and personnel
15 necessary to pass the reported emergency to the appropriate
16 emergency service and which the wireless service provider is
17 required to provide pursuant to the Federal Communications
18 Commission Order 94-102 (961 Federal Register 40348);

19 ~~5.~~ 6. "9-1-1 wireless telephone fee" means the fee imposed in
20 Section ~~5 of this act~~ 2865 of this title to finance the installation
21 and operation of emergency 9-1-1 services and any necessary
22 equipment;

23 ~~6.~~ 7. "Oklahoma Universal Service Fund charge" means the charge
24 imposed under Section 139.107 of Title 17 of the Oklahoma Statutes;

1 8. "Place of primary use" means the street address
2 representative of where the use of the mobile telecommunications
3 service of the customer primarily occurs, which shall be the
4 residential street address or the primary business street address of
5 the customer and shall be within the licensed service area of the
6 home service provider in accordance with Section 55001 of Title 68
7 of the Oklahoma Statutes and the federal Mobile Telecommunications
8 Sourcing Act, P.L. No. 106-252, codified at 4 U.S.C. 116-126;

9 ~~7.~~ 9. "Prepaid wireless telecommunications service" means a
10 telecommunications wireless service that provides the right to
11 utilize mobile wireless service as well as other telecommunications
12 services including the download of digital products delivered
13 electronically, content and ancillary services, which are paid for
14 in advance and sold in predetermined units or dollars of which the
15 number declines with use in a known amount;

16 ~~8.~~ 10. "Proprietary information" means wireless service
17 provider or VoIP service provider, subscriber, market share, cost
18 and review information;

19 ~~9.~~ 11. "Public agency" means any city, town, county, municipal
20 corporation, public district, public trust, substate planning
21 district, public authority or tribal authority located within this
22 state which provides or has authority to provide firefighting, law
23 enforcement, ambulance, emergency medical or other emergency
24 services;

1 ~~10.~~ 12. "Public safety answering point" or "PSAP" means an
2 entity responsible for receiving 9-1-1 calls and processing those
3 calls according to specific operational policy;

4 ~~11.~~ 13. "Wireless service provider" means a provider of
5 commercial mobile service under Section 332(d) of the
6 Telecommunications Act of 1996, 47 U.S.C., Section 151 et seq.,
7 Federal Communications Commission rules, and the Omnibus Budget
8 Reconciliation Act of 1993, Pub. L. No. 103-66, and includes a
9 provider of wireless two-way communication service, radio-telephone
10 communications related to cellular telephone service, network radio
11 access lines or the equivalent, and personal communication service.
12 The term does not include a provider of:

- 13 a. a service whose users do not have access to 9-1-1
14 service,
- 15 b. a communication channel used only for data
16 transmission, or
- 17 c. a wireless roaming service or other nonlocal radio
18 access line service;

19 ~~12.~~ 14. "Wireless telecommunications connection" means the ten-
20 digit access number assigned to a customer regardless of whether
21 more than one such number is aggregated for the purpose of billing a
22 service user; and

23
24

1 ~~13.~~ 15. "Voice over Internet Protocol (VoIP) provider" means a
2 provider of interconnected Voice over Internet Protocol service to
3 end users in the state, including resellers.

4 SECTION 6. AMENDATORY Section 5, Chapter 324, O.S.L.
5 2016 (63 O.S. Supp. 2017, Section 2865), is amended to read as
6 follows:

7 Section 2865. A. Beginning January 1, 2017, there shall be
8 imposed a 9-1-1 telephone fee as follows:

9 1. Seventy-five cents (\$0.75) monthly on each wireless
10 telephone connection and other communication device or service
11 connection with the ability to dial 9-1-1 for emergency calls;

12 2. Seventy-five cents (\$0.75) monthly on each service that is
13 enabled by Voice over Internet Protocol (VoIP) or Internet Protocol
14 (IP) with the ability to dial 9-1-1 for emergency calls; and

15 3. Seventy-five cents (\$0.75) on each prepaid wireless retail
16 transaction occurring in this state.

17 The seventy-five cent (\$0.75) fee on each prepaid wireless
18 retail transaction occurring in this state is to be combined with an
19 Oklahoma Universal Service Fund charge applicable to prepaid
20 wireless determined as provided under Section 139.107 of Title 17 of
21 the Oklahoma Statutes.

22 B. 1. For purposes of paragraph 3 of subsection A of this
23 section, a retail transaction that is effected in person by a
24 consumer at a business location of the seller shall be treated as

1 occurring in this state if that business location is in this state.
2 Any other retail transaction shall be sourced as provided in
3 paragraphs 2 through 5 of this subsection as applicable.

4 2. When the retail transaction does not occur at a business
5 location of the seller, the retail transaction shall be sourced to
6 the location where receipt by the consumer, or the consumer's donee,
7 designated as such by the consumer, occurs, including the location
8 indicated by instructions for delivery to the consumer or donee,
9 known to the seller.

10 3. When the provisions of paragraph 2 of this subsection do not
11 apply, the sale shall be sourced to the location indicated by an
12 address for the consumer that is available from the business records
13 of the seller that are maintained in the ordinary course of the
14 seller's business when use of this address does not constitute bad
15 faith.

16 4. When the provisions of paragraphs 2 and 3 of this subsection
17 do not apply, the sale shall be sourced to the location indicated by
18 an address for the consumer obtained during the consummation of the
19 sale, including the address of a consumer's payment instrument, if
20 no other address is available, when use of this address does not
21 constitute bad faith.

22 5. When none of the previous rules of paragraphs 1, 2, 3 and 4
23 of this subsection apply, including the circumstance in which the
24 seller is without sufficient information to apply the previous

1 rules, then the location shall be determined by the address from
2 which the service was provided, disregarding for these purposes any
3 location that merely provided the digital transfer of the product
4 sold. If the seller knows the mobile telephone number, the location
5 will be that which is associated with the mobile telephone number.

6 C. The fees authorized by subsection A of this section shall
7 not be assessed on landline phone customers.

8 D. The fees imposed in subsection A of this section shall
9 replace any 9-1-1 wireless telephone fees previously adopted by any
10 county pursuant to Section 2843.1 of ~~Title 63 of the Oklahoma~~
11 ~~Statutes~~ this title, or 9-1-1 VoIP emergency service fees adopted by
12 a governing body pursuant to Section 2853 of ~~Title 63 of the~~
13 ~~Oklahoma Statutes~~ this title, or fees on prepaid wireless retail
14 transactions pursuant to Section 2843.2 of ~~Title 63 of the Oklahoma~~
15 ~~Statutes~~ this title. Fees collected and transferred pursuant to
16 those sections shall remain in effect through December 31, 2016.

17 E. From each seventy-five-cent fee assessed and collected
18 pursuant to subsection A of this section, five cents (\$0.05) shall
19 be deposited into the Oklahoma 9-1-1 Management Authority Revolving
20 Fund created pursuant to Section ~~9 of this act~~ 2869 of this title.
21 Funds accumulating in this revolving fund shall be used to fund the
22 salary of the Oklahoma 9-1-1 Coordinator and any administrative
23 staff, operations of the Authority and any costs associated with the
24 administration of the Oklahoma 9-1-1 Management Authority Act within

1 the Oklahoma Department of Emergency Management, and for grants
2 approved by the Authority for purposes as authorized in ~~this act~~
3 Oklahoma 9-1-1 Management Authority Act.

4 SECTION 7. AMENDATORY Section 6, Chapter 324, O.S.L.
5 2016 (63 O.S. Supp. 2017, Section 2866), is amended to read as
6 follows:

7 Section 2866. A. 9-1-1 telephone fees authorized and collected
8 by wireless service providers and Voice over Internet Protocol
9 (VoIP) providers, pursuant to paragraphs 1 and 2 of subsection A of
10 ~~Section 5 of this act~~ 2865 of this title, from each of their end
11 users residing in this state shall be paid to the Oklahoma Tax
12 Commission no later than the twentieth day of the month succeeding
13 the month of collection.

14 B. From the total fees collected pursuant to paragraphs 1 and 2
15 of subsection A of ~~Section 5 of this act~~ 2865 of this title, one
16 percent (1%) shall be retained by the wireless service provider or
17 VoIP provider, and one percent (1%) shall be retained by the Tax
18 Commission as reimbursement for the direct cost of administering the
19 collection and remittance of the fees.

20 C. Every billed service subscriber shall be liable for any 9-1-
21 1 wireless telephone fee imposed pursuant to the Oklahoma 9-1-1
22 Management Authority Act until the fee has been paid to the wireless
23 service provider.

24

1 D. Fees imposed pursuant to the Oklahoma 9-1-1 Management
2 Authority Act which are required to be collected by the wireless
3 service provider or VoIP provider may be added to and shall be
4 stated separately in any billings to the service subscriber.

5 E. The wireless service provider or VoIP provider shall have no
6 obligation to take any legal action to enforce the collection of any
7 9-1-1 wireless telephone fee imposed pursuant to the provisions of
8 the Oklahoma 9-1-1 Management Authority Act. Should any service
9 subscriber tender a payment insufficient to satisfy all charges,
10 tariffs, fees and taxes for wireless telephone or VoIP service, the
11 amount tendered shall be credited to the 9-1-1 wireless telephone
12 fee in the same manner as other taxes and fees.

13 F. Any 9-1-1 fee imposed pursuant to the provisions of the
14 Oklahoma 9-1-1 Management Authority Act shall be collected insofar
15 as practicable at the same time as, and along with, the charges for
16 wireless telephone or VoIP service in accordance with the regular
17 billing practice of the provider.

18 G. Nothing in the Oklahoma 9-1-1 Management Authority Act shall
19 be construed to limit the ability of a wireless service provider or
20 VoIP provider from recovering its costs associated with designing,
21 developing, deploying and maintaining enhanced 9-1-1 service
22 directly from the service subscribers of the provider, whether the
23 costs are itemized on the bill of the service subscriber as a
24 surcharge or by any other lawful means.

1 H. The wireless service provider or VoIP provider shall
2 maintain records of the amount of 9-1-1 telephone fees collected in
3 accordance with the provisions of the Oklahoma 9-1-1 Management
4 Authority Act for a period of three (3) years from the time the fee
5 is collected. The State Auditor and Inspector, the Oklahoma 9-1-1
6 Management Authority or any affected public agency may require an
7 annual audit of the books and records of the wireless service
8 provider or VoIP provider concerning the collection and remittance
9 of fees authorized by ~~this act~~ the Oklahoma 9-1-1 Management
10 Authority Act. Auditors shall have access to all information used
11 by the wireless service provider or VoIP provider to calculate and
12 remit the 9-1-1 telephone fee. Audit expenses shall be reimbursable
13 pursuant to procedures established by the Oklahoma 9-1-1 Management
14 Authority if the audit is approved by the Authority.

15 I. The wireless service provider or VoIP provider shall provide
16 to the Oklahoma 9-1-1 Management Authority an annual census showing
17 the primary place of use of its subscribers located by county and
18 either a municipality or unincorporated area. The census shall
19 contain all subscribers as of December 31 of each year, and shall be
20 provided to the Authority no later than February 1 of each year.

21 J. All proprietary information provided by a wireless service
22 provider or VoIP provider to the Authority shall not be subject to
23 disclosure to the public or any other party.

24

1 K. Within thirty (30) days of receipt, the Oklahoma Tax
2 Commission shall pay available fees remitted pursuant to ~~Section 5~~
3 ~~of this act~~ paragraphs 1 and 2 of subsection A of Section 2865 of
4 this title to the governing bodies that the Oklahoma 9-1-1
5 Management Authority has certified in accordance with ~~Section 4 of~~
6 ~~this act~~ Section 2864 of this title as eligible to receive funds.
7 The share to be paid to or escrowed for each governing body shall be
8 determined by dividing the population of the governing body by the
9 total population of the state using the latest Federal Decennial
10 Census estimates.

11 SECTION 8. AMENDATORY Section 7, Chapter 324, O.S.L.
12 2016 (63 O.S. Supp. 2017, Section 2867), is amended to read as
13 follows:

14 Section 2867. A. ~~Prepaid 9-1-1 wireless transaction fees~~ The
15 Combined Prepaid Wireless 9-1-1 telephone fee and the Oklahoma
16 Universal Service Fund Charge authorized and collected pursuant to
17 paragraph 3 of subsection A of Section ~~5 of this act~~ 2865 of this
18 title from retailers shall be paid to the Oklahoma Tax Commission
19 under procedures established by the Tax Commission that
20 substantially coincide with the registration and payment procedures
21 that apply under the Oklahoma Sales Tax Code and as directed by the
22 Oklahoma 9-1-1 Management Authority. The audit and appeal
23 procedures, including limitations period, applicable to the Oklahoma
24 Sales Tax Code shall apply to prepaid 9-1-1 wireless telephone fees.

1 B. From the total fees collected pursuant to paragraph 3 of
2 subsection A of Section ~~5 of this act~~ 2865 of this title, three
3 percent (3%) shall be retained by the seller and one percent (1%)
4 shall be retained by the Tax Commission as reimbursement for the
5 direct cost of administering the collection and remittance of such
6 fees.

7 C. ~~The prepaid 9-1-1 wireless transaction fee shall be~~
8 ~~collected by the retailer from the consumer for each retail~~
9 ~~transaction occurring in this state. The amount of the prepaid 9-1-~~
10 ~~1 wireless fee shall either be separately stated on the invoice,~~
11 ~~receipt or similar document that is provided to the consumer by the~~
12 ~~seller, or otherwise disclosed to the consumer~~ Within thirty (30)
13 days of receipt, the Tax Commission shall pay the proportion of the
14 combined fee representing the OUSF charge to the Corporation
15 Commission and shall pay the proportion of the combined fee
16 representing the 9-1-1 fees to the governing bodies that the
17 Oklahoma 9-1-1 Management Authority has certified in accordance with
18 Section 2864 of this title as eligible to receive funds.

19 D. The 9-1-1 telephone fee and the Oklahoma Universal Service
20 Fund charge shall be combined into one fee to be collected as a
21 single amount by the retailer from the consumer who purchases
22 prepaid wireless telecommunications service with respect to each
23 retail transaction occurring in this state. The amount of the
24 combined fee shall either be separately stated on an invoice,

1 receipt or similar document that is provided to the consumer by the
2 seller or otherwise disclosed to the consumer.

3 E. The prepaid 9-1-1 wireless telephone fee ~~is~~ and the Oklahoma
4 Universal Service Fund charge are the liability of the consumer and
5 not of the seller or of any provider, except that the seller shall
6 be liable to remit all ~~prepaid 9-1-1 wireless telephone~~ fees that
7 the seller collects as provided in this section, including all
8 charges that the seller is deemed to collect where the amount of the
9 combined fee has not been separately stated on an invoice, receipt
10 or other similar document.

11 ~~E.~~ F. If the amount of the prepaid 9-1-1 wireless telephone fee
12 and the Oklahoma Universal Service Fund charge is separately stated
13 on the invoice, receipt or similar document, the ~~prepaid 9-1-1~~
14 ~~wireless telephone~~ combined fee shall not be included in the base
15 for measuring any tax, fee, surcharge or other charge that is
16 imposed by the state, any political subdivision of this state or any
17 intergovernmental agency.

18 SECTION 9. This act shall become effective November 1, 2018.

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