

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 599

By: Smalley

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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, 139.106, as amended by Section 4, and
10 139.107, as amended by Section 5, Chapter 270, O.S.L.
11 2016 (17 O.S. Supp. 2016, Sections 139.102, 139.106
12 and 139.107), which relate to definitions, the
13 Oklahoma Universal Service Fund, administration of
14 funds, and Special Universal Services funding,
15 defining terms; conforming language; modifying
16 Oklahoma Universal Service Fund cap; providing date
17 for termination of Fund; eliminating Fund
18 reimbursement requirement in certain situations;
19 removing automatic acceptance of certain
20 reimbursement reconsideration requests; removing
21 acceptance requirement of reporting methodology in
22 certain situations; removing requirement that
23 Commission shall rule on certain funding requests;
24 MISSING Section 1 J2; removing requirement that
Commission establish certain assessments at certain
levels; modifying Oklahoma Lifeline Fund cap;
establishing terms of collecting Fund charge related
to prepaid wireless service; establishing terms of
remittance of Fund charge; establishing terms of
calculating rate of Fund charge; requiring certain
rate changes to be applied by July 1 of calendar
year; requiring Commission notify Tax Commission of
rate changes by certain day; removing percentage
requirement of Special Universal Services credit
amount; adding waste and abuse to list of offenses
Commission may investigate or reject in monitoring
Fund payments to Special Universal Services;
requiring Oklahoma Universal Service Fund beneficiary
to provide certain documentation; adding fee on
prepaid wireless retail transactions to be added to
certain Oklahoma Universal Service Fund charges;

1 adding statutory references; adding a Combined
2 Prepaid Wireless fee with Oklahoma Universal Service
3 Fund charge; requiring Commission to pay certain fees
4 within certain time period; combining 9-1-1 telephone
5 fee and Oklahoma Universal Service Fund charge into
6 one fee; specifying terms of determining fee amount;
7 updating references to combined fees; and providing
8 an effective date.

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

10 SECTION 1. AMENDATORY 17 O.S. 2011, Section 139.102, as
11 last amended by Section 3, Chapter 270, O.S.L. 2016 (17 O.S. Supp.
12 2016, Section 139.102), is amended to read as follows:

13 Section 139.102. As used in the Oklahoma Telecommunications Act
14 of 1997:

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

19 2. "Administrative process" means an administrative application
20 process which allows eligible local exchange telecommunications
21 providers and eligible providers to request funding and an
22 administrative submission process that allows Oklahoma Universal
23 Service Fund Beneficiaries to submit a preapproval request directly
24 with the Administrator. Both of the administrative processes shall
not require an order from the Commission to determine eligibility

1 for, allocate or disburse funds unless a request for reconsideration
2 is filed;

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

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

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

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

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

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

1 Commission, FCC 10-185, released November 5, 2010, or such other
2 assessment methodology that is not inconsistent with federal law.
3 Entities exempt from contributing to the Federal Universal Service
4 Support Mechanisms are also exempt from contributing to the Oklahoma
5 Universal Service Fund and Oklahoma Lifeline Fund consistent with 47
6 C.F.R., Section 54.706(d). The term "contributing providers" may be
7 modified to conform to the definition of contributors as defined by
8 the FCC if adopted by the Commission, after notice and hearing;

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

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

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

23

24

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

4 13. "Enhanced service" means a service that is delivered over
5 communications transmission facilities and that uses computer
6 processing applications to:

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

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

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

1 or in connection with the business of any telecommunications service
2 provider;

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

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

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

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

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

1 seq., or by an urban Indian organization receiving
2 funds under Title V of the Indian Health Care
3 Improvement Act, 25 U.S.C., Section 1651 et seq.;

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

8 18. "Funding year" means, for purposes of administering the
9 Oklahoma Universal Service Fund, the period of July 1 through June
10 30;

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

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

22 21. "Incumbent local exchange telecommunications service
23 provider" or "ILEC" means, with respect to an area or exchanges, any
24 telecommunications service provider furnishing local exchange

1 service in such area or exchanges within this state on July 1, 1995,
2 pursuant to a certificate of convenience and necessity or
3 grandfathered authority;

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

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

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

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

1 originating provider's tariff shall determine whether the call is
2 local exchange service;

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

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

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

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

23 28. "Not-for-profit mental health and substance abuse facility"
24 means a facility, not for the sole purpose of administration, which

1 is operated by the Department of Mental Health and Substance Abuse
2 Services or a facility certified by the Department of Mental Health
3 and Substance Abuse Services as a Community Mental Health Care
4 Center, a Community-Based Structured Crisis Center or a Community
5 Comprehensive Addiction Recovery Center;

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

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

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

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

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

22 34. "Prepaid wireless telecommunications service" means a
23 telecommunications wireless service that provides the right to
24 utilize mobile wireless service as well as other telecommunications

1 services including the download of digital products delivered
2 electronically, content and ancillary services, which are paid for
3 in advance and sold in predetermined units or dollars of which the
4 number declines with use in a known amount

5 35. "Person" means any individual, partnership, association,
6 corporation, governmental entity, public or private organization of
7 any character, or any other entity;

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

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

23 ~~36.~~ 37. "Public library" means a library or library system that
24 is freely open to all persons under identical conditions and which

1 is supported in whole or in part by public funds. Public library
2 shall not include libraries operated as part of any university,
3 college, school museum, the Oklahoma Historical Society or county
4 law libraries;

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

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

23 ~~39.~~ 40. "Special Universal Services" means the
24 telecommunications services supported by the OUSF which are

1 furnished to public schools, public libraries and eligible health
2 care entities as provided for in Section 6 of this act;

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

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

12 ~~42.~~ 43. "Telecommunications carrier" means a person that
13 provides telecommunications service in this state;

14 ~~43.~~ 44. "Telecommunications service" means the offering of
15 telecommunications for a fee;

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

22 ~~45.~~ 46. "Universal service area" has the same meaning as the
23 term "service area" as defined in 47 U.S.C., Section 214(e) (5);

24

1 ~~46.~~ 47. "WAN" means a wide-area network that exists over a
2 large-scale geographical area. A WAN connects different smaller
3 networks, including local area networks and metro area networks,
4 which ensures that computers and users in one location can
5 communicate with computers and users in other locations;

6 ~~47.~~ 48. "Wire center" means a geographic area normally served
7 by a central office; and

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

14 SECTION 2. AMENDATORY 17 O.S. 2011, Section 139.106, as
15 amended by Section 4, Chapter 270, O.S.L. 2016 (17 O.S. Supp. 2016,
16 Section 139.106), is amended to read as follows:

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

1 B. The OUSF shall be funded and administered to promote and
2 ensure the availability of primary universal services, at rates that
3 are reasonable and affordable and Special Universal Services, and to
4 provide for reasonably comparable services at affordable rates in
5 rural areas as in urban areas. The OUSF shall provide funding to
6 local exchange telecommunications service providers that meet the
7 eligibility criteria established in this section and to eligible
8 providers that meet the eligibility criteria established in Section
9 6 of this act for the provision of Special Universal Services.

10 C. The OUSF shall be funded by a charge paid by all
11 contributing providers as provided for in Section 139.107 of this
12 title, ~~at a level sufficient to maintain universal service.~~

13 Effective January 1, 2018, the Commission shall reduce the
14 assessments for the OUSF as necessary to achieve the following
15 revenue caps for the OUSF:

16 1. For the year beginning January 1, 2018, the OUSF shall be
17 capped at a level not to exceed eighty percent (80%) of total OUSF
18 collections in calendar year 2016;

19 2. For the year beginning January 1, 2019, the OUSF shall be
20 capped at a level not to exceed sixty percent (60%) of the 2018 cap;

21 3. For the year beginning January 1, 2020, the OUSF shall be
22 capped at a level not to exceed forty percent (40%) of the 2018 cap;

23 and
24

1 4. For the year beginning January 1, 2021, the OUSF shall be
2 capped at a level not to exceed twenty percent (20%) of the 2018
3 cap. The OUSF will terminate effective January 1, 2022, and the fund
4 shall cease operation upon the expenditure of remaining funds.

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

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

1 The OUSF funding as provided in the determination of the
2 Administrator shall be paid to the eligible local exchange
3 telecommunications service provider or eligible provider within
4 forty-five (45) days without an order of the Commission.

5 3. For requests seeking OUSF funds pursuant to Section 6 of
6 this act, provided that an OUSF approval funding letter has been
7 issued as otherwise provided for in the Oklahoma Telecommunications
8 Act of 1997, the eligible provider shall, within sixty (60) days of
9 the start of service, submit to the Administrator a request for
10 reimbursement from the OUSF. The Administrator shall have sixty
11 (60) days to issue a determination to the Oklahoma Universal Service
12 Fund Beneficiary and eligible provider detailing the amount of
13 funding recoverable from the OUSF. Failure by the Administrator to
14 issue a determination within the sixty-day period means the request
15 for OUSF reimbursement is approved as submitted. The determination
16 shall detail the amount of funding recoverable from the OUSF.

17 ~~Failure by the Administrator to issue a determination shall mean the~~
18 ~~request for OUSF reimbursement is deemed approved on a permanent~~
19 ~~basis, and funding shall be paid within forty-five (45) days without~~
20 ~~an order of the Commission.~~ If a request for reconsideration of the
21 determination of the Administrator is not filed as provided for in
22 paragraph 5 of this subsection, the determination shall be deemed
23 final on the sixteenth day following the date of the determination.
24 The OUSF funding as provided in the determination of the

1 Administrator shall be paid to the eligible provider within forty-
2 five (45) days without an order of the Commission.

3 4. A request for reimbursement as provided for in paragraph 3
4 of this subsection shall be in the form as determined by the
5 Administrator. The form shall be posted by the Administrator no
6 later than one hundred twenty (120) days prior to the start of the
7 funding year to become effective July 1 for reimbursement requests
8 submitted for eligible services provided during the funding year.
9 Any party may file an objection to a posted form with the Commission
10 within fifteen (15) days of the posting. The Commission shall have
11 thirty (30) days to issue a final order on the objection to the
12 form. If the Commission does not issue a final order on the
13 objection within thirty (30) days, the objection shall be deemed
14 approved.

15 5. Any affected party, meaning the eligible local exchange
16 telecommunications service provider, the eligible provider, any
17 service provider that pays into the OUSF, the Oklahoma Universal
18 Service Fund Beneficiary or the Attorney General, shall have fifteen
19 (15) days to file a request for reconsideration by the Commission of
20 the determination made by the Administrator. ~~If the Commission does
21 not issue a final order within thirty (30) days from the date the
22 request for reconsideration is filed, the request shall be deemed
23 approved on an interim basis subject to refund with interest. The
24 interest rate on a refund shall be at a rate of not more than the~~

1 ~~interest rate established by the Commission on customer deposits and~~
2 ~~shall accrue for a period not to exceed ninety (90) days from the~~
3 ~~date the funds were received by the requesting eligible local~~
4 ~~exchange telecommunications service provider or eligible provider.~~
5 ~~If the Commission does not issue a final order within one hundred~~
6 ~~twenty (120) days of the filing of the request for reconsideration,~~
7 ~~then the request for OUSF or OLF funding as filed shall be deemed~~
8 ~~approved on a permanent basis without order of the Commission, and~~
9 ~~the OUSF and OLF funding shall be paid without an order of the~~
10 ~~Commission within forty-five (45) days.~~

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

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

18 F. The Commission shall not, prior to implementation and the
19 availability of funds from the OUSF, require local exchange
20 telecommunications service providers to reduce rates for intrastate
21 access services.

22 G. Any eligible local exchange telecommunications service
23 provider may request funding from the OUSF as necessary to maintain
24 rates for primary universal services that are reasonable and

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

3 1. To reimburse eligible local exchange telecommunications
4 service providers for the reasonable investments and expenses not
5 recovered from the federal universal service fund or any other state
6 or federal government fund incurred in providing universal services;

7 2. Infrastructure expenditures or costs incurred in response to
8 facility or service requirements established by a legislative,
9 regulatory, or judicial authority or other governmental entity
10 mandate;

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

13 4. To reimburse eligible local exchange telecommunications
14 service providers for providing the Special Universal Services as
15 set forth in Section 6 of this act;

16 5. To defray the costs of administering the OUSF, including the
17 costs of administration, processing, and an annual independent
18 audit. The annual audit shall not be performed by the Commission
19 staff; and

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

22 H. In identifying and measuring the costs of providing primary
23 universal services, exclusively for the purpose of determining OUSF
24 funding levels under this section, the eligible local exchange

1 telecommunications service provider serving less than seventy-five
2 thousand access lines shall, at its option:

3 1. Calculate such costs by including all embedded investments
4 and expenses incurred by the eligible local exchange
5 telecommunications service provider in the provision of primary
6 universal service, and may identify high-cost areas within the local
7 exchange area it serves and perform a fully distributed allocation
8 of embedded costs and identification of associated primary universal
9 service revenue. Such calculation may be made using fully
10 distributed Federal Communications Commission parts 32, 36 and 64
11 costs, if such parts are applicable. The high-cost area shall be no
12 smaller than a single exchange, wire center, or census block group,
13 chosen at the option of the eligible local exchange
14 telecommunications service provider;

15 2. Adopt the cost studies approved by the Commission for a
16 local exchange telecommunications service provider that serves
17 seventy-five thousand or more access lines; or

18 3. Adopt such other costing or measurement methodology as may
19 be established for such purpose by the Federal Communications
20 Commission pursuant to Section 254 of the federal Telecommunications
21 Act of 1996.

22 I. In identifying and measuring the cost of providing primary
23 universal services, and exclusively for the purpose of determining
24 OUSF funding levels pursuant to this section, each ILEC which serves

1 seventy-five thousand or more access lines and each CLEC shall
2 identify high-cost areas within the local exchange and perform a
3 cost study using a Commission-approved methodology from those
4 identified in subsection H of this section. The high-cost area
5 shall be no smaller than a single exchange, wire center or census
6 block group chosen at the option of the eligible ILEC or CLEC. ~~If~~
7 ~~the Commission fails to approve the selected methodology within one~~
8 ~~hundred twenty (120) days of the filing of the selection, the~~
9 ~~selected methodology shall be deemed approved.~~

10 J. The Commission may by rule expand primary universal services
11 to be supported by the OUSF, after notice and hearing. The
12 Administrator, upon approval of the Commission, shall determine the
13 level of additional OUSF funding to be made available to an eligible
14 local exchange telecommunications service provider which is required
15 to recover the cost of any expansion of universal services.

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

19 a. ~~in the event of a Federal Communications Commission~~
20 ~~order, rule or policy, the effect of which is to~~
21 ~~decrease the federal universal service fund revenues~~
22 ~~of an eligible local exchange telecommunications~~
23 ~~service provider, the eligible local exchange~~

24

1 ~~telecommunications service provider shall recover the~~
2 ~~decreases in revenues from the OUSF,~~

3 ~~b. if, as a result of changes required by existing or~~
4 ~~future federal or state regulatory rules, orders, or~~
5 ~~policies or by federal or state law, an eligible local~~
6 ~~exchange telecommunications service provider~~
7 ~~experiences a reduction in revenues or an increase in~~
8 ~~costs, it shall recover the revenue reductions or cost~~
9 ~~increases from the OUSF, the recovered amounts being~~
10 ~~limited to the net reduction in revenues or cost~~
11 ~~increases, or~~

12 ~~e. if, as a result of changes made as required by~~
13 ~~existing or future federal or state regulatory rules,~~
14 ~~orders, or policies or by federal or state law, an~~
15 ~~eligible local exchange telecommunications service~~
16 ~~provider experiences a reduction in costs, upon~~
17 ~~approval by the Commission, the provider shall reduce~~
18 ~~the level of OUSF funding it receives to a level~~
19 ~~sufficient to account for the reduction in costs.~~

20 ~~2. The receipt of OUSF funds for any of the changes referred to~~
21 ~~in this subsection shall not be conditioned upon any rate case or~~
22 ~~earnings investigation by the Commission. The Commission shall,~~
23 ~~pursuant to subsection D of this section, approve the request for~~
24 ~~payment or adjustment of payment from the OUSF based on a comparison~~

1 ~~of the total annual revenues received from the sources affected by~~
2 ~~the changes described in paragraph 1 of this subsection by the~~
3 ~~requesting eligible local exchange telecommunications service~~
4 ~~provider during the most recent twelve (12) months preceding the~~
5 ~~request, and the reasonable calculation of total annual revenues or~~
6 ~~cost increases which will be experienced after the changes are~~
7 ~~implemented by the requesting eligible local exchange~~
8 ~~telecommunications service provider.~~

9 ~~L. Upon request for OUSF funding by an ILEC serving seventy-~~
10 ~~five thousand or more access lines or a CLEC, the Commission shall~~
11 ~~after notice and hearing make a determination of the level of OUSF~~
12 ~~funds, if any, that the provider is eligible to receive for the~~
13 ~~purposes contained in subsection K of this section. If the~~
14 ~~Commission fails to make a determination within one hundred twenty~~
15 ~~(120) days of the filing of the request, the request for funding~~
16 ~~shall be deemed approved.~~

17 ~~M. K. The incumbent local exchange telecommunications service~~
18 ~~provider, its successors and assigns, which owned, maintained and~~
19 ~~provided facilities for universal service within a local exchange~~
20 ~~area on January 1, 1996, shall be the local exchange~~
21 ~~telecommunications service provider eligible for OUSF funding within~~
22 ~~the local exchange area, except as otherwise provided for in this~~
23 ~~act.~~

24

1 ~~N.~~ L. 1. Where the incumbent local exchange telecommunications
2 service provider receives or is eligible to receive monies from the
3 OUSF, except as otherwise provided in this section, the Commission,
4 after notice and hearing, may designate other local exchange
5 telecommunications service providers to be eligible for the funding,
6 provided:

7 a. the other local exchange telecommunications service
8 provider is certificated by the Commission to provide
9 and offers the primary universal services supported by
10 the OUSF to all customers in the universal service
11 area designated by the Commission, using its own
12 facilities, or a combination of its own facilities and
13 the resale of the services or facilities of another.
14 Universal service support under this subsection shall
15 not begin until the other local exchange
16 telecommunications service provider has facilities in
17 place,

18 b. the other local exchange telecommunications service
19 provider may only receive funding for the portion of
20 the facilities that it owns, maintains, and uses for
21 regulated services,

22 c. the other local exchange telecommunications service
23 provider shall not receive OUSF funding at a level
24 higher than the level of funding the incumbent local

1 exchange telecommunications service provider is
2 eligible to receive for the same area if the incumbent
3 local exchange telecommunications service provider is
4 also providing service in the same area; provided, the
5 cost of any cost studies required to be performed
6 shall be borne by the party requesting such studies,
7 unless the party performing the study utilizes the
8 study for its own benefit,

9 d. the other local exchange telecommunications service
10 provider advertises the availability and charges for
11 services it provides through a medium of general
12 distribution, and

13 e. it is determined by the Commission that the
14 designation is in the public interest and the other
15 local exchange telecommunications service provider is
16 in compliance with all Commission rules for which a
17 waiver has not been granted.

18 2. Notwithstanding the criteria set forth in this section for
19 designation as an eligible local exchange telecommunications service
20 provider, a commercial mobile radio service provider may, after
21 notice and hearing, seek reimbursement from the OUSF for the
22 provision of services supported by the OUSF, and any
23 telecommunications carrier may seek reimbursement from the OUSF for
24 the provision of Lifeline Service consistent with Section 139.105 of

1 this title and for the provision of Special Universal Services
2 consistent with Section 6 of this act.

3 ~~Q.~~ M. In exchanges or wire centers where the Commission has
4 designated more than one local exchange telecommunications service
5 provider as eligible for OUSF funding, the Commission shall permit
6 one or more of the local exchange telecommunications service
7 providers in the area to relinquish the designation as a local
8 exchange telecommunications service provider eligible for OUSF
9 funding in a manner consistent with Section 214(e)(4) of the federal
10 Telecommunications Act of 1996, upon a finding that at least one
11 eligible local exchange telecommunications service provider shall
12 continue to assume the carrier-of-last-resort obligations throughout
13 the area.

14 ~~P.~~ N. For any area served by an incumbent local exchange
15 telecommunications service provider which serves less than seventy-
16 five thousand access lines within the state, only the incumbent
17 local exchange telecommunications service provider shall be eligible
18 for OUSF funding except:

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

24

1 2. The incumbent local exchange telecommunications service
2 provider may elect to waive the right to be the only eligible local
3 exchange telecommunications service provider within the local
4 exchange area by filing notice with the Commission; or

5 3. When the Commission, after notice and hearing, makes a
6 determination that it is in the public interest that another local
7 exchange telecommunications service provider should also be deemed a
8 carrier of last resort and be eligible to receive OUSF funding in
9 addition to the incumbent local exchange telecommunications service
10 provider. It shall not be in the public interest to designate
11 another local exchange telecommunications service provider as being
12 a carrier of last resort and eligible to receive OUSF funding if
13 such designation would cause a significant adverse economic impact
14 on users of telecommunications services generally or if the other
15 carrier refuses to seek and accept carrier-of-last-resort
16 obligations throughout the universal service area as designated by
17 the Commission. The other local exchange telecommunications service
18 provider shall not receive OUSF funding at a level higher than the
19 level of funding the incumbent local exchange telecommunications
20 service provider is eligible to receive for the same area if the
21 incumbent local exchange telecommunications service provider is also
22 providing service in the same area and the other local exchange
23 telecommunications service provider meets the requirements of

24

1 subparagraphs a, b, d and e of paragraph 1 of subsection N of this
2 section.

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

6 Section 139.107. A. The Oklahoma Lifeline Fund (OLF) and the
7 Oklahoma Universal Service Fund (OUSF) shall be funded in a
8 competitively neutral manner not inconsistent with federal law by
9 all contributing providers. The funding from each contributing
10 provider shall be based on the total intrastate retail Oklahoma
11 Voice over Internet Protocol (VoIP) revenues and intrastate
12 telecommunications revenues, from both regulated and unregulated
13 services, of the contributing provider, hereinafter referred to as
14 assessed revenues, as a percentage of all assessed revenues of the
15 contributing providers, or such other assessment methodology not
16 inconsistent with federal law. VoIP services shall be assessed only
17 as provided for in the decision of the Federal Communications
18 Commission, FCC 10-185, released November 5, 2010, or such other
19 assessment methodology that is not inconsistent with federal law.
20 The Commission may after notice and hearing modify the contribution
21 methodology for the OUSF and OLF, provided the new methodology is
22 not inconsistent with federal law.

23 B. ~~The Corporation Commission shall establish the OLF~~
24 ~~assessment and the OUSF assessment at a level sufficient to recover~~

1 ~~costs of administration and payments for OUSF and OLF requests for~~
2 ~~funding as provided for in the Oklahoma Telecommunications Act of~~
3 ~~1997~~ Effective January 1, 2018, the Commission shall reduce the
4 assessments for the OUSF as necessary to achieve the following
5 revenue caps for the OUSF:

6 1. For the year beginning January 1, 2018, the OUSF shall be
7 capped at a level not to exceed eighty percent (80%) of total OUSF
8 collections in calendar year 2016;

9 2. For the year beginning January 1, 2019, the OUSF shall be
10 capped at a level not to exceed sixty percent (60%) of the 2018 cap;

11 3. For the year beginning January 1, 2020, the OUSF shall be
12 capped at a level not to exceed forty percent (40%) of the 2018 cap;
13 and

14 4. For the year beginning January 1, 2021, the OUSF shall be
15 capped at a level not to exceed twenty percent (20%) of the 2018
16 cap. The OUSF will terminate effective January 1, 2022, and the fund
17 shall cease operation upon the expenditure of remaining funds.

18 The administration of the OLF and OUSF shall be provided by the
19 Public Utility Division of the Commission. The administrative
20 function shall be headed by the Administrator as defined in Section
21 139.102 of this title. The Administrator shall be an independent
22 evaluator. The Administrator may enter into contracts to assist
23 with the administration of the OLF and OUSF.

24

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

14 D. The monies deposited in the OLF, the OUSF and the Oklahoma
15 High Cost Fund shall at no time become monies of the state and shall
16 not become part of the general budget of the Corporation Commission
17 or any other state agency. Except as otherwise authorized by the
18 Oklahoma Telecommunications Act of 1997, no monies from the OLF, the
19 OUSF, or the Oklahoma High Cost Fund shall be transferred for any
20 purpose to any other state agency or any account of the Corporation
21 Commission or be used for the purpose of contracting with any other
22 state agency or reimbursing any other state agency for any expense.
23 Payments from the OLF, the OUSF, and the Oklahoma High Cost Fund
24 shall not become or be construed to be an obligation of this state.

1 No claims for reimbursement from the OLF, the OUSF or the Oklahoma
2 High Cost Fund shall be paid with state monies.

3 E. 1. The OUSF charge applicable to prepaid wireless
4 telecommunications service shall be collected by the seller from the
5 consumer on each retail transaction in accordance with the
6 procedures established under Sections 2865 and 2867 of Title 63 of
7 the Oklahoma Statutes and is the only OUSF imposition that may be
8 applied to prepaid wireless telecommunications service. The OUSF
9 charge shall be remitted by the seller to the Tax Commission using
10 procedures established by Sections 2865 and 2867 of Title 63 of the
11 Oklahoma Statutes.

12 2. The rate of the OUSF charge applicable to prepaid wireless
13 telecommunications service shall be converted from a percentage to a
14 flat transaction amount by multiplying the percentage rate
15 established by the Corporation Commission by the inverse of the
16 Federal Communications Commission "safe harbor" percentage for
17 determining the interstate portion of a fixed monthly wireless
18 charge, and then multiplying the result times twenty-five dollars
19 (\$25.00). Such amount shall be rounded to the nearest whole cent.

20 3. Any rate change approved by the Corporation Commission shall
21 be applied on July 1 of any calendar year. The Commission shall
22 notify the Tax Commission within fifteen (15) days of final approval
23 of any change in the OUSF rate applicable to prepaid wireless
24

1 telecommunications service. No more than one rate change shall be
2 permitted in a calendar year.

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

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

8 1. Each eligible healthcare entity in this state as defined in
9 Section 139.102 of Title 17 of the Oklahoma Statutes shall be
10 eligible to receive Special Universal Services for telemedicine
11 providers. Special Universal Services for telemedicine providers
12 shall include the provision of bandwidth per standards as
13 recommended by the Federal Communications Commission sufficient for
14 providing telemedicine services including the telemedicine line,
15 reasonable installation and network termination equipment owned and
16 operated by the eligible provider that is necessary to provide the
17 eligible telemedicine service;

18 2. Each public school as defined in Section 139.102 of Title 17
19 of the Oklahoma Statutes shall be eligible to receive Special
20 Universal Services for schools. Special Universal Services for
21 schools shall include the E-rate Eligible Services List (ESL) for
22 Category One services as determined by the FCC for the applicable
23 funding year or, in the absence of such a list, as published by the
24 Universal Services Administrative Company. In the event no ESL is

1 available from the FCC or USAC for the applicable funding year,
2 eligible services will be those on the ESL for the last funding year
3 for which an ESL was available. Special Universal Services shall
4 include the provision of bandwidth sufficient for providing
5 educational services not to exceed, without good cause shown, the
6 standards established for the relevant funding year by the State
7 Educational Technology Directors Association (SETDA) or successor
8 educational broadband standard including Internet access lines, WAN
9 connections, reasonable installation, and network termination
10 equipment owned and operated by the eligible provider as defined by
11 the ESL that is necessary to provide the eligible service. Student
12 counts as reported to the State Department of Education in October
13 of the year prior to the relevant funding year shall be utilized for
14 the purpose of determining bandwidth recommendations established by
15 SETDA for purposes of this paragraph. In the absence of standards
16 prescribed for the applicable funding year, the standards for the
17 next prescribed funding year shall be used. Special Universal
18 Services shall not include voice services that use separate lines or
19 have allocated bandwidth. The Commission may modify the service
20 considered to be Special Universal Services pursuant to rule, after
21 notice and hearing; and

22 3. Each public library as defined in Section 139.102 of Title
23 17 of the Oklahoma Statutes shall be eligible to receive Special
24 Universal Services for libraries. Special Universal Services for

1 libraries shall include the E-rate Eligible Services List ("ESL")
2 for Category One services as determined by the Federal
3 Communications Commission for the applicable funding year or, in the
4 absence of such a list, as published by the Universal Services
5 Administrative Company. In the event no ESL is available from the
6 FCC or USAC for the applicable funding year, eligible services will
7 be those on the ESL for the last funding year for which an ESL was
8 available. Special Universal Services shall include the provision
9 of bandwidth sufficient for providing library services per standards
10 as recommended by the Federal Communications Commission including
11 Internet access lines, reasonable installation and network
12 termination equipment owned and operated by the eligible provider
13 that is necessary to provide the eligible service. Special
14 Universal Services shall not include voice services that use
15 separate lines or have allocated bandwidth. The Commission may
16 modify the services considered to be Special Universal Services
17 pursuant to rule, after notice and hearing.

18 B. 1. Eligible services that are exempt from competitive
19 bidding pursuant to state law or the rules of the Federal Universal
20 Service Support Mechanisms or successor program or programs shall be
21 exempt from the Special Universal Services competitive bidding
22 requirements set forth in this subsection, and the Oklahoma
23 Universal Service Fund Beneficiary must provide evidence of such
24 exemption as part of the funding request.

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

21 3. The credit amount for the provision of Special Universal
22 Services as provided for in subsection A of this section shall be
23 determined as provided for in this subsection.

24

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

7 5. Oklahoma Universal Service Fund Beneficiaries shall conduct
8 a fair and open competitive bidding process to select the services
9 and carrier eligible for support. The competitive bidding process
10 shall meet the following standards:

- 11 a. the solicitation of bids shall clearly identify the
12 bandwidth range requested by the Oklahoma Universal
13 Service Fund Beneficiary or consortium,
- 14 b. the Oklahoma Universal Service Fund Beneficiary shall
15 not limit bidders based upon technology,
- 16 c. the bidding shall be open to all carriers authorized
17 to receive OUSF funding in the telephone exchange
18 where the Oklahoma Universal Service Fund Beneficiary
19 is located or where the members of the consortium are
20 located, and
- 21 d. the bidding shall not be structured in a manner to
22 exclude carriers eligible to receive OUSF funding in
23 the telephone exchange where the Oklahoma Universal
24 Services Fund Beneficiary is located.

1 6. For Special Universal Services that are competitively bid in
2 compliance with this act, the credit amount shall be not more than
3 ~~twenty five percent (25%) greater than~~ the lowest cost reasonable
4 qualifying bid of the total prediscount amount of eligible services
5 plus installation charges, less federal funding support for the same
6 services including installation charges issued in a funding
7 commitment letter or similar approval document for the Federal
8 Universal Service Support Mechanism or successor program or programs
9 for the applicable funding year.

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

- 12 a. represents the lowest total cost proposal including
13 monthly recurring and nonrecurring charges for
14 eligible services,
- 15 b. is reasonable to meet the needs of the Oklahoma
16 Universal Service Fund Beneficiary as listed in the
17 request for bids,
- 18 c. is submitted during the same competitive bidding
19 period as the awarded bid,
- 20 d. is for a bandwidth within the range requested for bid
21 and selected by the Oklahoma Universal Service Fund
22 Beneficiary,

23
24

1 e. is for the same contract term as the bid that was
2 selected by the Oklahoma Universal Service Fund
3 Beneficiary,

4 f. meets the requirements specified in the request for
5 bid by the Oklahoma Universal Service Fund
6 Beneficiary, and

7 g. was the result of a fair and open competitive bidding
8 process as defined in this act.

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

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

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

20 2. The OUSF shall not fund more than one eligible provider for
21 the same service at the same location for the same time period,
22 except during a transition period from one eligible provider to
23 another. Funding during a transition period shall not exceed thirty
24 (30) days.

1 D. The Administrator shall have the authority to investigate
2 each request for OUSF funding for Special Universal Services in
3 order to ensure that the OUSF pays only for the Special Universal
4 Services authorized in this section. The Administrator shall deny
5 requests for OUSF funding in excess of the credit amounts authorized
6 in subsection B of this section unless good cause is shown.

7 E. The Corporation Commission shall have authority to
8 investigate and modify or reject in whole or part a Special
9 Universal Service request under subsection A of this section if the
10 request does not meet the specified criteria, if the Corporation
11 Commission's investigation determines that the entity has not
12 provided sufficient documentation for the requested services, or if
13 the Corporation Commission determines that granting the request is
14 not in the public interest due to fraud, waste or abuse.

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

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

21 a. the Administrator shall establish an administrative
22 approval process to be initiated by the Oklahoma
23 Universal Service Fund Beneficiary in a timely fashion
24 for the purpose of determining eligible services and

1 credit amounts for the upcoming funding year. The
2 administrative preapproval submission process shall
3 include all necessary forms and instructions,
4 hereinafter referred to as the "OUSF administrative
5 preapproval request". The Administrator shall
6 determine the form for the OUSF administrative
7 preapproval requests, which shall require the Oklahoma
8 Universal Service Fund Beneficiary to provide a
9 detailed description of how the funds will be used and
10 describe any federal funding that has been sought for
11 the same purposes, including the amount of any amounts
12 granted. The form shall be posted on the Commission
13 website no later than June 30 of each year to become
14 effective for any OUSF administrative preapproval
15 requests submitted after August 31 of that year. Any
16 party may file an objection to the form with the
17 Commission within fifteen (15) days of posting. The
18 Commission shall issue a final order on the objection
19 to the form within thirty (30) days,

- 20 b. the Administrator shall issue an approval funding
21 letter to the Oklahoma Universal Service Fund
22 Beneficiary and the eligible provider within ninety
23 (90) days of receipt of a properly completed OUSF
24 administrative preapproval request. Failure by the

1 Administrator to issue an approval funding letter
2 within the ninety-day period means the OUSF
3 administrative preapproval request submitted by the
4 Oklahoma Universal Service Fund Beneficiary is
5 approved as submitted and the subsequent request for
6 reimbursement submitted by the eligible provider which
7 is consistent with the information submitted in the
8 OUSF administrative preapproval request shall be
9 approved as submitted,

10 c. the approval funding letter shall inform the Oklahoma
11 Universal Service Fund Beneficiary of the preapproved
12 services and associated credit amount for the
13 applicable funding year. The amount of OUSF funding
14 preapproved under this subsection may be subject to
15 adjustments based on the amount of support received
16 from other sources, if any, and adjustments to pricing
17 that may occur between the time of preapproval and
18 installation of service,

19 d. any OUSF administrative preapproval request shall be
20 submitted to the Administrator in the format outlined
21 in instructions posted on the Commission website. The
22 OUSF administrative preapproval request shall include
23 but not be limited to the following:
24

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

5 (2) a Federal Universal Service Support Mechanism or
6 successor program or programs form used to
7 request federal funding support for the
8 applicable funding year,

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

11 (4) competitive bidding documentation for the
12 relevant funding year,

13 e. issuance of an OUSF approval funding letter by the
14 Administrator shall occur without a Commission order,

15 f. OUSF administrative preapproval requests not submitted
16 by June 30 prior to the applicable funding year shall
17 be processed by the Administrator on a first-in-first-
18 out basis, and

19 g. after a preapproval funding letter has been issued, an
20 OUSF Beneficiary may submit a new administrative
21 preapproval request to provide corrections or
22 additional information per program rules issued by the
23 Commission.
24

1 3. The eligible provider reimbursement process shall be as
2 follows:

3 a. requests for reimbursement shall be submitted per
4 procedures as set forth in subsection D of Section
5 139.106 of Title 17 of the Oklahoma Statutes,

6 b. the Administrator shall post the monthly payout report
7 to the Commission website,

8 c. funding for eligible services, including federal
9 funding, shall not exceed actual eligible expenses,

10 d. any change in cost of eligible services during the
11 funding year shall be reported by the eligible
12 provider to the OUSF and:

13 (1) all decreases in cost shall be deemed approved
14 until the next eligible bidding period and all
15 cost savings shall be properly allocated to the
16 OUSF and the Oklahoma Universal Service Fund
17 Beneficiary, and

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

20 e. issuance of a determination by the Administrator shall
21 not require a Commission order.

22 SECTION 5. AMENDATORY Section 2, Chapter 324, O.S.L.
23 2016 (63 O.S. Supp. 2016, Section 2862), is amended to read as
24 follows:

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

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

5 2. "Combined fee" means the sum of the prepaid wireless 9-1-1
6 fee and the Oklahoma Universal Service Fund charge;

7 3. "Governing body" means the board of county commissioners of
8 a county, the city council, tribal authority or other governing body
9 of a municipality, or a combination of such boards, councils or
10 other municipal governing bodies including county or municipal
11 beneficiary public trusts, or other public trusts which shall have
12 an administering board. A governing body made up of two or more
13 governmental entities shall have a board consisting of not less than
14 three members and shall consist of at least one member representing
15 each governmental entity, appointed by the governing body of each
16 participating governmental entity, as set forth in the agreement
17 forming the board. The members of the board shall serve for terms
18 of not more than three (3) years as set forth in the agreement.
19 Members may be appointed to serve more than one term. The names of
20 the members of the governing body board and the appointing authority
21 of each member shall be maintained in the office of the county clerk
22 in the county or counties in which the system operates, along with
23 copies of the agreement forming the board and any amendments to that
24 agreement;

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

2 a. IP-based system comprised of hardware, software, data,
3 and operational policies and procedures that:

4 (1) provides standardized interfaces from emergency
5 call and message services to support emergency
6 communications,

7 (2) processes all types of emergency calls, including
8 voice, text, data and multimedia information,

9 (3) acquires and integrates additional emergency call
10 data useful to call routing and handling,

11 (4) delivers the emergency calls, messages and data
12 to the appropriate public safety answering point
13 and other appropriate emergency entities,

14 (5) supports data or video communications needs for
15 coordinated incident response and management, and

16 (6) provides broadband service to public safety
17 answering points or other first responder
18 entities, or

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

23 ~~4.~~ 5. "9-1-1 emergency telephone service" means any telephone
24 system whereby telephone subscribers may utilize a three-digit

1 number (9-1-1) for reporting an emergency to the appropriate public
2 agency providing law enforcement, fire, medical or other emergency
3 services, including ancillary communications systems and personnel
4 necessary to pass the reported emergency to the appropriate
5 emergency service and which the wireless service provider is
6 required to provide pursuant to the Federal Communications
7 Commission Order 94-102 (961 Federal Register 40348);

8 ~~5.~~ 6. "9-1-1 wireless telephone fee" means the fee imposed in
9 ~~Section 5 of this act~~ Section 2865 of this title to finance the
10 installation and operation of emergency 9-1-1 services and any
11 necessary equipment;

12 ~~6.~~ 7. "Oklahoma Universal Service Fund charge" means the charge
13 imposed under Section 139.107 of Title 17 of the Oklahoma Statutes;

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

22 ~~7.~~ 9. "Prepaid wireless telecommunications service" means a
23 telecommunications wireless service that provides the right to
24 utilize mobile wireless service as well as other telecommunications

1 services including the download of digital products delivered
2 electronically, content and ancillary services, which are paid for
3 in advance and sold in predetermined units or dollars of which the
4 number declines with use in a known amount;

5 ~~8.~~ 10. "Proprietary information" means wireless service
6 provider or VoIP service provider, subscriber, market share, cost
7 and review information;

8 ~~9.~~ 11. "Public agency" means any city, town, county, municipal
9 corporation, public district, public trust, substate planning
10 district, public authority or tribal authority located within this
11 state which provides or has authority to provide firefighting, law
12 enforcement, ambulance, emergency medical or other emergency
13 services;

14 ~~10.~~ 12. "Public safety answering point" or "PSAP" means an
15 entity responsible for receiving 9-1-1 calls and processing those
16 calls according to specific operational policy;

17 ~~11.~~ 13. "Wireless service provider" means a provider of
18 commercial mobile service under Section 332(d) of the
19 Telecommunications Act of 1996, 47 U.S.C., Section 151 et seq.,
20 Federal Communications Commission rules, and the Omnibus Budget
21 Reconciliation Act of 1993, Pub. L. No. 103-66, and includes a
22 provider of wireless two-way communication service, radio-telephone
23 communications related to cellular telephone service, network radio
24

1 access lines or the equivalent, and personal communication service.

2 The term does not include a provider of:

3 a. a service whose users do not have access to 9-1-1
4 service,

5 b. a communication channel used only for data
6 transmission, or

7 c. a wireless roaming service or other nonlocal radio
8 access line service;

9 ~~12.~~ 14. "Wireless telecommunications connection" means the ten-
10 digit access number assigned to a customer regardless of whether
11 more than one such number is aggregated for the purpose of billing a
12 service user; and

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

16 SECTION 6. AMENDATORY Section 5, Chapter 324, O.S.L.
17 2016 (63 O.S. Supp. 2016, Section 2865), is amended to read as
18 follows:

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

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

24

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

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

6 B. The seventy-five cent fee on each prepaid wireless retail
7 transaction occurring in this state is to be combined with an
8 Oklahoma Universal Service Fund charge applicable to prepaid
9 wireless determined as provided under Section 139.107(E) of Title 17
10 of the Oklahoma Statutes.

11 ~~B.~~ C. 1. For purposes of paragraph 3 of subsection A of this
12 section, a retail transaction that is effected in person by a
13 consumer at a business location of the seller shall be treated as
14 occurring in this state if that business location is in this state.
15 Any other retail transaction shall be sourced as provided in
16 paragraphs 2 through 5 of this subsection as applicable.

17 2. When the retail transaction does not occur at a business
18 location of the seller, the retail transaction shall be sourced to
19 the location where receipt by the consumer, or the consumer's donee,
20 designated as such by the consumer, occurs, including the location
21 indicated by instructions for delivery to the consumer or donee,
22 known to the seller.

23 3. When the provisions of paragraph 2 of this subsection do not
24 apply, the sale shall be sourced to the location indicated by an

1 address for the consumer that is available from the business records
2 of the seller that are maintained in the ordinary course of the
3 seller's business when use of this address does not constitute bad
4 faith.

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

11 5. When none of the previous rules of paragraphs 1, 2, 3 and 4
12 of this subsection apply, including the circumstance in which the
13 seller is without sufficient information to apply the previous
14 rules, then the location shall be determined by the address from
15 which the service was provided, disregarding for these purposes any
16 location that merely provided the digital transfer of the product
17 sold. If the seller knows the mobile telephone number, the location
18 will be that which is associated with the mobile telephone number.

19 ~~C.~~ D. The fees authorized by subsection A of this section shall
20 not be assessed on landline phone customers.

21 ~~D.~~ E. The fees imposed in subsection A of this section shall
22 replace any 9-1-1 wireless telephone fees previously adopted by any
23 county pursuant to Section 2843.1 of Title 63 of the Oklahoma
24 Statutes, or 9-1-1 VoIP emergency service fees adopted by a

1 governing body pursuant to Section 2853 of Title 63 of the Oklahoma
2 Statutes, or fees on prepaid wireless retail transactions pursuant
3 to Section 2843.2 of Title 63 of the Oklahoma Statutes. Fees
4 collected and transferred pursuant to those sections shall remain in
5 effect through December 31, 2016.

6 ~~E.~~ F. From each seventy-five-cent fee assessed and collected
7 pursuant to subsection A of this section, five cents (\$0.05) shall
8 be deposited into the Oklahoma 9-1-1 Management Authority Revolving
9 Fund created pursuant to Section 9 of this act. Funds accumulating
10 in this revolving fund shall be used to fund the salary of the
11 Oklahoma 9-1-1 Coordinator and any administrative staff, operations
12 of the Authority and any costs associated with the administration of
13 the Oklahoma 9-1-1 Management Authority Act within the Oklahoma
14 Department of Emergency Management, and for grants approved by the
15 Authority for purposes as authorized in this act.

16 SECTION 7. AMENDATORY Section 6, Chapter 324, O.S.L.
17 2016 (63 O.S. Supp. 2016, Section 2866), is amended to read as
18 follows:

19 Section 2866. A. 9-1-1 telephone fees authorized and collected
20 by wireless service providers and Voice over Internet Protocol
21 (VoIP) providers, pursuant to paragraphs 1 and 2 of subsection A of
22 ~~Section 5 of this act~~ Section 2865 of this title, from each of their
23 end users residing in this state shall be paid to the Oklahoma Tax
24

1 Commission no later than the twentieth day of the month succeeding
2 the month of collection.

3 B. From the total fees collected pursuant to paragraphs 1 and 2
4 of subsection A of Section 5 of this act, one percent (1%) shall be
5 retained by the wireless service provider or VoIP provider, and one
6 percent (1%) shall be retained by the Tax Commission as
7 reimbursement for the direct cost of administering the collection
8 and remittance of the fees.

9 C. Every billed service subscriber shall be liable for any 9-1-
10 1 wireless telephone fee imposed pursuant to the Oklahoma 9-1-1
11 Management Authority Act until the fee has been paid to the wireless
12 service provider.

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

17 E. The wireless service provider or VoIP provider shall have no
18 obligation to take any legal action to enforce the collection of any
19 9-1-1 wireless telephone fee imposed pursuant to the provisions of
20 the Oklahoma 9-1-1 Management Authority Act. Should any service
21 subscriber tender a payment insufficient to satisfy all charges,
22 tariffs, fees and taxes for wireless telephone or VoIP service, the
23 amount tendered shall be credited to the 9-1-1 wireless telephone
24 fee in the same manner as other taxes and fees.

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

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

13 H. The wireless service provider or VoIP provider shall
14 maintain records of the amount of 9-1-1 telephone fees collected in
15 accordance with the provisions of the Oklahoma 9-1-1 Management
16 Authority Act for a period of three (3) years from the time the fee
17 is collected. The State Auditor and Inspector, the Oklahoma 9-1-1
18 Management Authority or any affected public agency may require an
19 annual audit of the books and records of the wireless service
20 provider or VoIP provider concerning the collection and remittance
21 of fees authorized by this act. Auditors shall have access to all
22 information used by the wireless service provider or VoIP provider
23 to calculate and remit the 9-1-1 telephone fee. Audit expenses
24 shall be reimbursable pursuant to procedures established by the

1 Oklahoma 9-1-1 Management Authority if the audit is approved by the
2 Authority.

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

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

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

22 SECTION 8. AMENDATORY Section 7, Chapter 324, O.S.L.
23 2016 (63 O.S. Supp. 2016, Section 2867), is amended to read as
24 follows:

1 Section 2867. A. ~~Prepaid 9-1-1 wireless transaction fees~~ The
2 Combined Prepaid Wireless 9-1-1 telephone fee and the Oklahoma
3 Universal Service fund Charge authorized and collected pursuant to
4 paragraph 3 of subsection A of ~~Section 5 of this act~~ Section 2865 of
5 this title from retailers shall be paid to the Oklahoma Tax
6 Commission under procedures established by the Tax Commission that
7 substantially coincide with the registration and payment procedures
8 that apply under the Oklahoma Sales Tax Code and as directed by the
9 Oklahoma 9-1-1 Management Authority. The audit and appeal
10 procedures, including limitations period, applicable to the Oklahoma
11 Sales Tax Code shall apply to prepaid 9-1-1 wireless telephone fees.

12 B. From the total fees collected pursuant to paragraph 3 of
13 subsection A of ~~Section 5 of this act~~ Section 2865 of this title,
14 three percent (3%) shall be retained by the seller and one percent
15 (1%) shall be retained by the Tax Commission as reimbursement for
16 the direct cost of administering the collection and remittance of
17 such fees.

18 C. ~~The prepaid 9-1-1 wireless transaction fee shall be~~
19 ~~collected by the retailer from the consumer for each retail~~
20 ~~transaction occurring in this state. The amount of the prepaid 9-1-~~
21 ~~1 wireless fee shall either be separately stated on the invoice,~~
22 ~~receipt or similar document that is provided to the consumer by the~~
23 ~~seller, or otherwise disclosed to the consumer~~ Within thirty (30)
24 days of receipt, the Tax Commission shall pay the proportion of the

1 combined fee representing the OUSF charge to the Corporation
2 Commission and shall pay the proportion of the combined fee
3 representing the 9-1-1 fees to the governing bodies that the
4 Oklahoma 9-1-1 Management Authority has certified in accordance with
5 Section 4 of this act as eligible to receive funds.

6 D. The 9-1-1 telephone fee and the Oklahoma Universal Service
7 Fund charge shall be combined into one fee to be collected as a
8 single amount by the retailer from the consumer who purchases
9 prepaid wireless telecommunications service with respect to each
10 retail transaction occurring in this state. The amount of the
11 combined fee shall either be separately stated on an invoice,
12 receipt or similar document that is provided to the consumer by the
13 seller, or otherwise disclosed to the consumer.

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

22 ~~E.~~ F. If the amount of the prepaid 9-1-1 wireless telephone fee
23 and Oklahoma Universal Service Fund charge is separately stated on
24 the invoice, receipt or similar document, the ~~prepaid 9-1-1 wireless~~

1 ~~telephone~~ combined fee shall not be included in the base for
2 measuring any tax, fee, surcharge or other charge that is imposed by
3 the state, any political subdivision of this state or any
4 intergovernmental agency.

5 SECTION 9. This act shall become effective November 1, 2017.

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