

1 STATE OF OKLAHOMA

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

3 SENATE BILL 766

By: Dahm

4
5
6 AS INTRODUCED

7 An Act relating to prepaid wireless
8 telecommunications; amending Section 2, Chapter 324,
9 O.S.L. 2016 (63 O.S. Supp. 2016, Section 2862), which
10 relates to the collection and apportionment of
11 telephone fees; adding certain definitions; amending
12 Section 5, Chapter 324, O.S.L. 2016 (63 O.S. Supp.
13 2016, Section 2865), which relates to 9-1-1 telephone
14 fees; modifying certain fee apportionment; amending
15 Section 6, Chapter 324, O.S.L. 2016 (63 O.S. Supp.
16 2016, Section 2866), which relates to the collection
17 and apportionment of telephone fees; updating certain
18 reference; amending Section 7, Chapter 324, O.S.L.
19 2016 (63 O.S. Supp. 2016, Section 2867), which
20 relates to the collection and apportionment of 9-1-1
21 fees; establishing procedures for payment of certain
22 fees; amending 17 O.S. 2011, Section 139.102, as last
23 amended by Section 3, Chapter 270, O.S.L. 2016 (17
24 O.S. Supp. 2016, Section 139.102), which relates to
25 definitions, providing certain definition; amending
26 17 O.S. 2011, Section 139.107, as amended by Section
27 5, Chapter 270, O.S.L. 2016 (17 O.S. Supp. 2016,
28 Section 139.107), which relates to the Oklahoma
29 Telecommunications act of 1997, establishing
30 procedures for collection of Oklahoma Universal
31 Service Fund charges, establishing provisions
32 relating to rate changes; and providing an effective
33 date.

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

1 SECTION 1. AMENDATORY Section 2, Chapter 324, O.S.L.
2 2016 (63 O.S. Supp. 2016, Section 2862), is amended to read as
3 follows:

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

6 1. "Authority" means the Oklahoma 9-1-1 Management Authority
7 created in Section 3 of this act;

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

10 ~~2.~~ 3. "Governing body" means the board of county commissioners
11 of a county, the city council, tribal authority or other governing
12 body of a municipality, or a combination of such boards, councils or
13 other municipal governing bodies including county or municipal
14 beneficiary public trusts, or other public trusts which shall have
15 an administering board. A governing body made up of two or more
16 governmental entities shall have a board consisting of not less than
17 three members and shall consist of at least one member representing
18 each governmental entity, appointed by the governing body of each
19 participating governmental entity, as set forth in the agreement
20 forming the board. The members of the board shall serve for terms
21 of not more than three (3) years as set forth in the agreement.
22 Members may be appointed to serve more than one term. The names of
23 the members of the governing body board and the appointing authority
24 of each member shall be maintained in the office of the county clerk

1 in the county or counties in which the system operates, along with
2 copies of the agreement forming the board and any amendments to that
3 agreement;

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

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

- 7 (1) provides standardized interfaces from emergency
8 call and message services to support emergency
9 communications,
10 (2) processes all types of emergency calls, including
11 voice, text, data and multimedia information,
12 (3) acquires and integrates additional emergency call
13 data useful to call routing and handling,
14 (4) delivers the emergency calls, messages and data
15 to the appropriate public safety answering point
16 and other appropriate emergency entities,
17 (5) supports data or video communications needs for
18 coordinated incident response and management, and
19 (6) provides broadband service to public safety
20 answering points or other first responder
21 entities, or

22 b. IP-based system comprised of hardware, software, data
23 and operational policies and procedures that conforms
24

1 with subsequent amendments made to the definition of
2 Next Generation 9-1-1 services in Public Law 112-96;

3 ~~4.~~ 5. "9-1-1 emergency telephone service" means any telephone
4 system whereby telephone subscribers may utilize a three-digit
5 number (9-1-1) for reporting an emergency to the appropriate public
6 agency providing law enforcement, fire, medical or other emergency
7 services, including ancillary communications systems and personnel
8 necessary to pass the reported emergency to the appropriate
9 emergency service and which the wireless service provider is
10 required to provide pursuant to the Federal Communications
11 Commission Order 94-102 (961 Federal Register 40348);

12 ~~5.~~ 6. "9-1-1 wireless telephone fee" means the fee imposed in
13 Section 5 of this act to finance the installation and operation of
14 emergency 9-1-1 services and any necessary equipment;

15 7. "Oklahoma Universal Fund charge" means the charge imposed
16 under Section 139.07 of Title 17 of the Oklahoma Statutes;

17 ~~6.~~ 8. "Place of primary use" means the street address
18 representative of where the use of the mobile telecommunications
19 service of the customer primarily occurs, which shall be the
20 residential street address or the primary business street address of
21 the customer and shall be within the licensed service area of the
22 home service provider in accordance with Section 55001 of Title 68
23 of the Oklahoma Statutes and the federal Mobile Telecommunications
24 Sourcing Act, P.L. No. 106-252, codified at 4 U.S.C. 116-126;

1 ~~7.~~ 9. "Prepaid wireless telecommunications service" means a
2 telecommunications wireless service that provides the right to
3 utilize mobile wireless service as well as other ~~telecommunications~~
4 nontelecommunication services including the download of digital
5 products delivered electronically, content and ancillary services,
6 which are paid for in advance and sold in predetermined units or
7 dollars of which the number declines with use in a known amount;

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

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

17 ~~10.~~ 12. "Public safety answering point" or "PSAP" means an
18 entity responsible for receiving 9-1-1 calls and processing those
19 calls according to specific operational policy;

20 ~~11.~~ 13. "Wireless service provider" means a provider of
21 commercial mobile service under Section 332(d) of the
22 Telecommunications Act of 1996, 47 U.S.C., Section 151 et seq.,
23 Federal Communications Commission rules, and the Omnibus Budget
24 Reconciliation Act of 1993, Pub. L. No. 103-66, and includes a

1 provider of wireless two-way communication service, radio-telephone
2 communications related to cellular telephone service, network radio
3 access lines or the equivalent, and personal communication service.

4 The term does not include a provider of:

- 5 a. a service whose users do not have access to 9-1-1
6 service,
- 7 b. a communication channel used only for data
8 transmission, or
- 9 c. a wireless roaming service or other nonlocal radio
10 access line service;

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

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

18 SECTION 2. AMENDATORY Section 5, Chapter 324, O.S.L.
19 2016 (63 O.S. Supp. 2016, Section 2865), is amended to read as
20 follows:

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

23

24

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

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

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

9 B. The seventy-five (75) cent fee on each prepaid wireless
10 retail transaction occurring in this state is to be combined with an
11 Oklahoma Universal Service Fund charge applicable to prepaid
12 wireless fee determined as provided under Section 139.107 of Title
13 17 of the Oklahoma Statutes.

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

20 2. When the retail transaction does not occur at a business
21 location of the seller, the retail transaction shall be sourced to
22 the location where receipt by the consumer, or the consumer's donee,
23 designated as such by the consumer, occurs, including the location
24

1 indicated by instructions for delivery to the consumer or donee,
2 known to the seller.

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

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

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

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

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

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

20 SECTION 3. AMENDATORY Section 6, Chapter 324, O.S.L.
21 2016 (63 O.S. Supp. 2016, Section 2866), is amended to read as
22 follows:

23 Section 2866. A. 9-1-1 telephone fees authorized and collected
24 by wireless service providers and Voice over Internet Protocol

1 (VoIP) providers, pursuant to paragraphs 1 and 2 of subsection A of
2 Section ~~5~~ 2865 of this ~~act~~ title, from each of their end users
3 residing in this state shall be paid to the Oklahoma Tax Commission
4 no later than the twentieth day of the month succeeding the month of
5 collection.

6 B. From the total fees collected pursuant to paragraphs 1 and 2
7 of subsection A of Section ~~5~~ 2865 of this ~~act~~ title, one percent
8 (1%) shall be retained by the wireless service provider or VoIP
9 provider, and one percent (1%) shall be retained by the Tax
10 Commission as reimbursement for the direct cost of administering the
11 collection and remittance of the fees.

12 C. Every billed service subscriber shall be liable for any 9-1-
13 1 wireless telephone fee imposed pursuant to the Oklahoma 9-1-1
14 Management Authority Act until the fee has been paid to the wireless
15 service provider.

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

20 E. The wireless service provider or VoIP provider shall have no
21 obligation to take any legal action to enforce the collection of any
22 9-1-1 wireless telephone fee imposed pursuant to the provisions of
23 the Oklahoma 9-1-1 Management Authority Act. Should any service
24 subscriber tender a payment insufficient to satisfy all charges,

1 tariffs, fees and taxes for wireless telephone or VoIP service, the
2 amount tendered shall be credited to the 9-1-1 wireless telephone
3 fee in the same manner as other taxes and fees.

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

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

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

1 information used by the wireless service provider or VoIP provider
2 to calculate and remit the 9-1-1 telephone fee. Audit expenses
3 shall be reimbursable pursuant to procedures established by the
4 Oklahoma 9-1-1 Management Authority if the audit is approved by the
5 Authority.

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

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

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

24

1 SECTION 4. AMENDATORY Section 7, Chapter 324, O.S.L.
2 2016 (63 O.S. Supp. 2016, Section 2867), is amended to read as
3 follows:

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

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

20 ~~C. The prepaid 9-1-1 wireless transaction fee shall be~~
21 ~~collected by the retailer from the consumer for each retail~~
22 ~~transaction occurring in this state. The amount of the prepaid 9-1-~~
23 ~~1 wireless fee shall either be separately stated on the invoice,~~
24 ~~receipt or similar document that is provided to the consumer by the~~

1 ~~seller, or otherwise disclosed to the consumer~~ Within thirty (30)
2 days of receipt, the Tax Commission shall pay the proportion of the
3 combined fee representing the OUSF charge to the Corporation
4 Commission and shall pay the proportion of the combined fee
5 representing the nine-one-one fees to the governing bodies that the
6 Oklahoma 9-1-1 Management Authority has certified in accordance with
7 Section 2864 of this title as eligible to receive funds.

8 D. ~~The prepaid 9-1-1 wireless telephone fee is the liability of~~
9 ~~the consumer and not of the seller or of any provider, except that~~
10 ~~the seller shall be liable to remit all prepaid 9-1-1 wireless~~
11 ~~telephone fees that the seller collects as provided in this section,~~
12 ~~including all charges that the seller is deemed to collect where the~~
13 ~~amount of the fee has not been separately stated on an invoice,~~
14 ~~receipt or other similar document~~ The 9-1-1 telephone fee and the
15 Oklahoma Universal Service Fund charge shall be combined into one
16 fee to be collected as a single amount by the retailer from the
17 consumer who purchases prepaid wireless telecommunications service
18 with respect to each retail transaction occurring in this state.
19 The amount of the combined fee shall either be separately stated on
20 an invoice, receipt or similar document that is provided to the
21 consumer by the seller, or otherwise disclosed to the consumer.

22 E. The combined prepaid 9-1-1 wireless telephone fee and
23 Oklahoma Universal Service Fund charge are the liability of the
24 consumer and not of the seller or of any provider, except that the

1 seller shall be liable to remit all combined fees that the seller
2 collects as provided in this section, including all charges that the
3 seller is deemed to collect where the amount of the combined fee has
4 not been separately stated on an invoice, receipt or other similar
5 document.

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

13 SECTION 5. AMENDATORY 17 O.S. 2011, Section 139.102, as
14 last amended by Section 3, Chapter 270, O.S.L. 2016 (17 O.S. Supp.
15 2016, Section 139.102), is amended to read as follows:

16 Section 139.102. As used in the Oklahoma Telecommunications Act
17 of 1997:

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

22 2. "Administrative process" means an administrative application
23 process which allows eligible local exchange telecommunications
24 providers and eligible providers to request funding and an

1 administrative submission process that allows Oklahoma Universal
2 Service Fund Beneficiaries to submit a preapproval request directly
3 with the Administrator. Both of the administrative processes shall
4 not require an order from the Commission to determine eligibility
5 for, allocate or disburse funds unless a request for reconsideration
6 is filed;

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

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

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

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

17 7. "Consortium" means, as used in Section ~~6~~ 139.101.1 of this
18 ~~act~~ title, two or more Oklahoma Universal Service Fund Beneficiaries
19 that choose to request support under the Federal Universal Service
20 Support Mechanism or successor program or programs as a single
21 entity;

22 8. "Contributing providers" means providers, including but not
23 limited to providers of intrastate telecommunications, providers of
24 intrastate telecommunications for a fee on a non-common-carrier

1 basis, providers of wireless telephone service and providers of
2 interconnected Voice over Internet Protocol (VoIP). Contributing
3 providers shall contribute to the Oklahoma Universal Service Fund
4 and Oklahoma Lifeline Fund. VoIP providers shall be assessed only
5 as provided for in the decision of the Federal Communications
6 Commission, FCC 10-185, released November 5, 2010, or such other
7 assessment methodology that is not inconsistent with federal law.
8 Entities exempt from contributing to the Federal Universal Service
9 Support Mechanisms are also exempt from contributing to the Oklahoma
10 Universal Service Fund and Oklahoma Lifeline Fund consistent with 47
11 C.F.R., Section 54.706(d). The term "contributing providers" may be
12 modified to conform to the definition of contributors as defined by
13 the FCC if adopted by the Commission, after notice and hearing;

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

21 10. "Eligible local exchange telecommunications service
22 provider" means ILEC, CLEC and commercial radio mobile service
23 provider as those terms are used in the Oklahoma Telecommunications
24 Act of 1997;

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

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

7 13. "Enhanced service" means a service that is delivered over
8 communications transmission facilities and that uses computer
9 processing applications to:

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

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

23 15. "Facilities" means all the plant and equipment of a
24 telecommunications service provider, including all tangible and

1 intangible real and personal property without limitation, and any
2 and all means and instrumentalities in any manner owned, operated,
3 leased, licensed, used, controlled, furnished, or supplied for, by,
4 or in connection with the business of any telecommunications service
5 provider;

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

- 8 a. is receiving a grant under Section 330 of the Public
9 Health Service (PHS) Act, 42 U.S.C., Section 254b, or
10 is receiving funding from a grant under a contract
11 with the recipient of such a grant and meets the
12 requirements to receive a grant under Section 330 of
13 the PHS Act,
- 14 b. based on the recommendation of the Health Resources
15 and Services Administration within the Public Health
16 Service, is determined by the Secretary of the
17 Department of Health and Human Services to meet the
18 requirements for receiving a grant as described in
19 subparagraph a of this paragraph,
- 20 c. was treated by the Secretary of the Department of
21 Health and Human Services, for purposes of part B of
22 Section 330 of the PHS Act, as a comprehensive
23 federally funded health center as of January 1, 1990,
24 or

1 d. is an outpatient health program or facility operated
2 by a tribe or tribal organization under the Indian
3 Self-Determination Act, 25 U.S.C., Section 450f et
4 seq., or by an urban Indian organization receiving
5 funds under Title V of the Indian Health Care
6 Improvement Act, 25 U.S.C., Section 1651 et seq.;

7 17. "Federal Universal Service Support Mechanism" is the
8 support program established by the Telecommunications Act of 1996,
9 47 U.S.C., Section 254(h). The program includes support for
10 schools, libraries and healthcare providers;

11 18. "Funding year" means, for purposes of administering the
12 Oklahoma Universal Service Fund, the period of July 1 through June
13 30;

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

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

1 21. "Incumbent local exchange telecommunications service
2 provider" or "ILEC" means, with respect to an area or exchanges, any
3 telecommunications service provider furnishing local exchange
4 service in such area or exchanges within this state on July 1, 1995,
5 pursuant to a certificate of convenience and necessity or
6 grandfathered authority;

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

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

17 24. "Internet" means the international research-oriented
18 network comprised of business, government, academic and other
19 networks;

20 25. "Local exchange telecommunications service" means a
21 regulated switched or dedicated telecommunications service which
22 originates and terminates within an exchange or an exchange service
23 territory. Local exchange telecommunications service may be
24 terminated by a telecommunications service provider other than the

1 telecommunications service provider on whose network the call
2 originated. The local exchange service territory defined in the
3 originating provider's tariff shall determine whether the call is
4 local exchange service;

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

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

- 9 a. a hospital located in this state which has been
10 licensed as a hospital at that location pursuant to
11 Section 1-701 et seq. of Title 63 of the Oklahoma
12 Statutes for the diagnosis, treatment, or care of
13 patients in order to obtain medical care, surgical
14 care or obstetrical care and which is established as
15 exempt from taxation pursuant to the provisions of the
16 Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
17 or
18 b. a hospital located in this state which is licensed as
19 a hospital at that location pursuant to Section 1-701
20 et seq. of Title 63 of the Oklahoma Statutes and is
21 owned by a municipality, county, the state or a public
22 trust for the diagnosis, treatment, or care of
23 patients in order to obtain medical care, surgical
24 care, or obstetrical care;

1 28. "Not-for-profit mental health and substance abuse facility"
2 means a facility, not for the sole purpose of administration, which
3 is operated by the Department of Mental Health and Substance Abuse
4 Services or a facility certified by the Department of Mental Health
5 and Substance Abuse Services as a Community Mental Health Care
6 Center, a Community-Based Structured Crisis Center or a Community
7 Comprehensive Addiction Recovery Center;

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

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

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

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

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

1 34. "Prepaid wireless telecommunications service" means prepaid
2 wireless telecommunications service as that term is defined in
3 paragraph 9 of Section 2862 of Title 63 of the Oklahoma Statutes;

4 ~~34.~~ 35. "Person" means any individual, partnership,
5 association, corporation, governmental entity, public or private
6 organization of any character, or any other entity;

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

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

22 ~~36.~~ 37. "Public library" means a library or library system that
23 is freely open to all persons under identical conditions and which
24 is supported in whole or in part by public funds. Public library

1 shall not include libraries operated as part of any university,
2 college, school museum, the Oklahoma Historical Society or county
3 law libraries;

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

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

22 ~~39.~~ 40. "Special Universal Services" means the
23 telecommunications services supported by the OUSF which are
24 furnished to public schools, public libraries and eligible health

1 care entities as provided for in Section ~~6~~ 139.109.1 of this ~~act~~
2 title;

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 6. AMENDATORY 17 O.S. 2011, Section 139.107, as
15 amended by Section 5, Chapter 270, O.S.L. 2016 (17 O.S. Supp. 2016,
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. VoIP services shall be assessed only
4 as provided for in the decision of the Federal Communications
5 Commission, FCC 10-185, released November 5, 2010, or such other
6 assessment methodology that is not inconsistent with federal law.
7 The Commission may after notice and hearing modify the contribution
8 methodology for the OUSF and OLF, provided the new methodology is
9 not inconsistent with federal law.

10 B. The Corporation Commission shall establish the OLF
11 assessment and the OUSF assessment at a level sufficient to recover
12 costs of administration and payments for OUSF and OLF requests for
13 funding as provided for in the Oklahoma Telecommunications Act of
14 1997. The administration of the OLF and OUSF shall be provided by
15 the Public Utility Division of the Commission. The administrative
16 function shall be headed by the Administrator as defined in Section
17 139.102 of this title. The Administrator shall be an independent
18 evaluator. The Administrator may enter into contracts to assist
19 with the administration of the OLF and OUSF.

20 C. If the Commission determines after notice and hearing that a
21 contributing provider has acted in violation of this section, in
22 addition to the other enforcement powers of the Commission,
23 including its contempt powers and authority to revoke a
24 telecommunications service provider's certificate of convenience and

1 necessity, the Commission may bring an action on behalf of the OLF
2 or the OUSF, in a court of competent jurisdiction that the
3 Commission deems appropriate, to recover any unpaid fees and
4 assessments the Commission has determined are due and payable,
5 including interest, administrative and adjudicative costs, and
6 attorney fees. Upon collection of the assessments, fees and costs,
7 the Administrator shall pay the costs of the actions and deposit the
8 remaining funds in the OLF or the OUSF as appropriate.

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

22 E. 1. The OUSF charge applicable to prepaid wireless
23 telecommunications service shall be collected by the seller from the
24 consumer on each retail transaction in accordance with the

1 procedures established under Sections 2865 and 2867 of Title 63 of
2 the Oklahoma Statutes and is the only OUSF imposition that may be
3 applied to prepaid wireless telecommunications service. The OUSF
4 charge shall be remitted by the seller to the Tax Commission using
5 procedures established by Sections 2865 and 2867 of Title 63 of the
6 Oklahoma Statutes.

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

15 3. Any rate change approved by the Commission shall be applied
16 on July 1 of any calendar year. The Corporation Commission shall
17 notify the Tax Commission within fifteen (15) days of final approval
18 of any change in the OUSF rate applicable to prepaid wireless
19 telecommunications service. No more than one rate change shall be
20 permitted in a calendar year.

21 SECTION 7. This act shall become effective November 1, 2017.

22

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