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SEP 20 2019

**BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA**

COURT CLERK'S OFFICE - OKLAHOMA  
CORPORATION COMMISSION  
OF OKLAHOMA

IN RE: INQUIRY OF THE OKLAHOMA	)	
CORPORATION COMMISSION TO IDENTIFY AND	)	
RESOLVE ISSUES RELATED TO THE	)	
OKLAHOMA UNIVERSAL SERVICE FUND,	)	CAUSE NO. PUD 201800066
LIFELINE SERVICE, OKLAHOMA HIGH COST	)	
FUND, BROADBAND SUPPORT, VOIP SERVICE	)	
AND OTHER TELECOMMUNICATIONS MATTERS	)	

**THIRD SET OF QUESTIONS FOR NOTICE OF INQUIRY**

The Oklahoma Corporation Commission (“Commission”) issued a Notice of Inquiry (“NOI”) on June 28, 2018, in order to identify and resolve issues related to and/or affecting the Oklahoma Universal Service Fund and the Oklahoma Lifeline Fund (collectively, “OUSF”), and other telecommunications related questions.

The Public Utility Division (“PUD”) invites all interested persons to **submit comments regarding the below questions on or before October 9, 2019**. Those persons interested in submitting comments should file two (2) copies of their comments, referring to Cause No. PUD 201800066, with the Commission’s Court Clerk, and submit a filed copy of the comments via email to Jeff W. Kline at [jeff.kline@occ.ok.gov](mailto:jeff.kline@occ.ok.gov). The comments will be made available for public inspection by telephone, email, through the Commission’s Imaging system, or in-person request during regular business hours of the Court Clerk, 8:00 a.m. to 4:30 p.m.

Based on the submitted comments, PUD may request additional comments be submitted, or may request additional technical conference(s), as needed.

Further information and inquiries regarding this NOI should be directed to Jeff W. Kline, Deputy General Counsel, by telephone (405) 521-2308, e-mail [jeff.kline@occ.ok.gov](mailto:jeff.kline@occ.ok.gov), facsimile (405) 521-4150, or at Room 400, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105, or Post Office Box 52000, Oklahoma City, Oklahoma 73152-2000.

**I. Description of Proposed Changes – Section 139.102 (attached hereto as *Attachment A*)**

There are proposed changes to a number of definitions that appear elsewhere in 17 O.S. § 139, *et al.* which are intended to clarify existing definitions and / or add definitions that support language elsewhere in this Section.

The substantive proposed changes, those changes that involve more than typographical changes (e.g., capitalization of definitions), are described as follows:

**Change No. 1:**

(1) Access Line

**Description / Purpose:** The definition of Access Line is changed to reflect the language inserted into OAC 165:59-3-64(c) that clarified that the facilities utilized to provide Primary Universal Service can include the end user loop component and functionality which allows access to the Internet, including access to combined consumer voice and Broadband Internet Service. It is believed such a change properly recognizes the reality of today's network architectures and avoids any unintended and ultimately inefficient requirement that Primary Universal Service be delivered over a different and separate network from one that also provides access to Broadband Internet Service.

**Request for Comment:**

- A. Does this proposed language accurately capture the changes adopted in RM 201800019 for OAC 165:59-3-64(c)? If not, please describe all deviations.
- B. Is there any reason the statutory language should not be adjusted to clarify the manner in which Primary Universal Service is delivered? If so, please describe such reasons.

**Change No. 2:**

(4) Broadband Internet Service

**Description / Purpose:** This introduces a new definition and is intended to replace the definition for "High speed Internet access service" or "broadband service" found in the current statutory language at 17 O.S. § 139.102(19). As the same definition is maintained, this is a renaming of this service to be more consistent with today's terminology.

**Request for Comment:**

- A. Should this definition continue to reflect services with a downstream / upstream speed of 150/150 kbps as Broadband Internet Service? If so, please explain the basis, particularly how this speed relates to the FCC's requirements, for purposes of federal high cost support, to deliver 10 Mbps downstream and 1 Mbps upstream and / or 25 Mbps downstream and 3 Mbps upstream.
- B. If the downstream/upstream speed used to define Broadband Internet Service should be changed / updated in the statute, what would be the appropriate speed to incorporate in this definition? Please provide the benefits and / or basis for any recommended change to the speed.

**Change No. 3:**

(5) Carrier of Last Resort or COLR

**Description / Purpose:** This introduces a new definition. This change is intended to provide clarity for a term that is already utilized in the statute. This definition is consistent with the definition found in OAC 165:55-1-4 and OAC 165:55-13-12(a).

**Request for Comment:**

- A. Is there any reason that this definition should not be added? If so, please explain.
- B. Should this be defined differently? If so, please provide suggested language.

**Change No. 4:**

(13) Eligible Telecommunications Carrier or ETC

**Description / Purpose:** This introduces a new definition. This change is intended to provide clarity for a term that is already utilized in the statute. This definition is consistent with the definition found in OAC 165:55-1-4 and OAC 165:55-13-12(a).

**Request for Comment:**

- A. Is there any reason that this definition should not be added? If so, please explain.
- B. Should this be defined differently? If so, please provide suggested language.

**Change No. 5:**

(19) High speed Internet access service or broadband service

**Description / Purpose:** The recommendation is to strike this definition given its replacement with the definition of Broadband Internet Service proposed above.

**Request for Comment:**

- A. Is there any reason this definition should not be stricken? If so, please explain, particularly how rejection of this proposal would impact the proposed addition of the definition of Broadband Internet Service.

**Change No. 6:**

(27) Internet Protocol-enable Service or IP-enabled Service

**Description / Purpose:** This introduces a new definition. This terminology is being introduced for use in 17 O.S. § 139.110 to add additional clarity in identifying those services for which the Commission shall not, by entering any order, adopting any rule, or otherwise taking any agency action, impose any regulation.

**Request for Comment:**

- A. Is there any reason that this definition should not be added? If so, please explain.
- B. Should this be defined differently? If so, please provide suggested language.

**Change No. 7:**

(28) Interconnected Voice over Internet Protocol or VoIP

**Description / Purpose:** This introduces a new definition. Further, this definition is consistent with the definition at 47 C.F.R. § 9.3. This terminology is being introduced for use in 17 O.S. § 139.110 to identify this sub-set of IP-enable Service and specify the treatment of VoIP by the Commission in certain circumstances.

**Request for Comment:**

- A. Is there any reason that this definition should not be added? If so, please explain.
- B. Should this be defined differently? If so, please provide suggested language.

**Change No. 8:**

(39) Primary Universal Service

**Description / Purpose:** These edits add language to clarify that Eligible Local Exchange Telecommunications Service Providers are the entities that provide Primary Universal Service in accordance with 17 O.S. § 139.106. Further, access to Lifeline service has been added to the list of functions and services that are to be available in conjunction with Primary Universal Service. Language has also been added to provide the Commission with the flexibility to identify specific other capabilities to be included in Primary Universal Service. Finally, in recognition of the changes to the networks used to provide telecommunications services, the reference to DTMF signaling has been modified to provide for alternative, equivalent functionality. Also in recognition of the current nature of networks, the term “dial tone” has been deleted.

**Request for Comment:**

- A. Is the addition of Lifeline service appropriate? If not, please explain.
- B. Does the specification that Primary Universal Service is provided by Eligible Local Exchange Telecommunications Service Providers improve the definition?
- C. If the addition of Lifeline service is appropriate, should the definition be adjusted further to indicate that the providers of Primary Universal Service would be Eligible Local Exchange Telecommunications Service Providers with Eligible Telecommunications Carrier (ETC) designation?
- D. Should the Commission have the flexibility to specify other capabilities to be included in Primary Universal Service? If not, please explain.

**Change No. 9:**

(42) Public Switched Network

**Description / Purpose:** It is being proposed to add this definition as the statute currently makes reference to the public switched network (e.g., Access Line definition). The language is consistent with the federal definition found at 47 C.F.R. § 20.3. It is believed this adds necessary clarity.

**Request for Comment:**

- A. Is there any reason this definition should not be added? Please explain.

**Change No. 10:**

(52) Wire Center

**Description / Purpose:** This alters an existing definition. This change is intended to more accurately define this term in the context of the federal CFR.

**Request for Comment:**

- A. Is there any reason that this definition should not be modified? If so, please explain.
- B. Should this be modified differently? If so, please provide suggested language.

**II. Description of Proposed Changes – Section 139.103 (attached hereto as *Attachment B*)**

The proposal is to delete language in this section that is either no longer applicable or references dates and deadlines that have passed, or both. Other than some typographical changes, there are no additions being proposed for this section.

**Request for Comment:**

- A. Are any of these proposed changes concerning? If so, please identify which are of concern and describe any additional factors that should be considered.

**III. Description of Proposed Changes – Section 139.105 (attached hereto as *Attachment C*)**

Many of the changes in this section are to harmonize the Oklahoma Lifeline program with the federal Lifeline program. Having the program consistent with the federal requirements simplifies the enforcement / auditing process, particularly since the federal rules have changed and no longer allow state defined eligibility programs to establish eligibility for federal Lifeline support (state defined eligibility programs can only establish eligibility for the state Lifeline fund).

In general the changes to this section add and or alter language to make clear who can provide Lifeline services in Oklahoma, conform Lifeline eligibility requirements with the federal requirements, clarify how any OLF support is to be applied to a consumer's bill, and add language that recognizes the role of the National Verifier in eligibility determination and proper procedures in advance of the National Verifier becoming available. Language is also added to recognize the federal rules with regard to the definition of households and associated Lifeline limitations.

Finally, there is language added to increase the amount of support to be provided by the Oklahoma Lifeline Fund. The proposal is to increase the current \$0.02 per subscriber per month support amount to \$10.00 per subscriber per month on non-Tribal lands and Tribal lands that are not eligible for the federal enhanced support. For Tribal lands that are eligible for the federal enhanced support, the OLF support amount would be \$1.00 per subscriber per month.

The substantive proposed changes, those changes that involve more than typographical changes (e.g., capitalization of definitions), are described as follows:

**Change No. 1:**

17 O.S. § 139.105(A)

**Description / Purpose:** This language proposes to require carriers that are designated as ETCs in Oklahoma, to participate in the Oklahoma Lifeline Fund. It is believed that such participation would enhance the Commission's ability to monitor, review and take corrective action in those instances where ETCs are not in compliance with Oklahoma and / or federal Lifeline requirements.

Language is also altered in this section to reflect that today's Lifeline support amount is a fixed amount that is to offset the retail rates that would otherwise be charged to the Lifeline subscriber. The reference to a waiver of the End User Common Line Charge is antiquated and no longer applicable. Cites to the federal rules on qualification and eligibility for Lifeline are updated to reflect current rules.

Lastly, the existing qualifying programs are deleted and replaced with the programs for qualification found in the federal rules. This is necessary as the federal rules, which formerly allowed states to identify their own income based programs, now specify all programs that are acceptable for qualifying for Lifeline.

**Request for Comment:**

- A. Are there any barriers, legal or otherwise, to the concept of requiring ETCs in Oklahoma to participate in the Oklahoma Lifeline Program? If so, please describe to include appropriate cites if legal barriers are identified.
- B. Is there any reason the statutory language should not be adjusted to clarify the manner in which Primary Universal Service is delivered? If so, please describe such reasons.

**Change No. 2:**

17 O.S. § 139.105(B)

**Description / Purpose:** This language is adjusted to make clear that designation as an ETC is required in order to receive Oklahoma Lifeline Fund support. Additional language has been added to make clear that OLF support is applicable to both residential voice telephony as well as Broadband Internet Service. This is intended to make the state Lifeline requirements consistent with the federal rules.

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in adopting language harmonizing the method of applying the OLF support with the federal requirement to apply the discount to the retail rate of the supported services? If so, please explain.

- B. Are there any concerns or issues that should be considered in adopting language harmonizing the services support by the OLF with the federal supported services? If so, please explain.

**Change No. 3:**

17 O.S. § 139.105(D)

**Description / Purpose:** This language is amended to specify how the retail rates are to be reduced based on the receipt of OLF support and that the OLF support is to apply after the application of the federal Lifeline support. The language is also intended to clarify that the amount of OLF support cannot be greater than the remaining retail rate (after application of the federal discount)

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in adopting language clarifying the acceptable methodology for applying the OLF discount? If so, please explain.

**Change No. 4:**

17 O.S. § 139.105(F)(4)

**Description / Purpose:** This language is intended to modify the requirement to obtain the customer's primary residential address rather than the current requirement to collect the customer's billing address. This makes the requirement consistent with the federal requirements.

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in changing the address to be obtained to the primary residential address? If so, please explain.

**Change No. 5:**

17 O.S. § 139.105(F)(5)

**Description / Purpose:** This new language specifies the eligibility documentation retention requirements, which are consistent with the federal requirements.

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in requiring eligibility documentation retention in this manner? If so, please explain.

**Change No. 6:**

17 O.S. § 139.105(G)(6)

**Description / Purpose:** This language is amended to reflect the requirement that the Lifeline benefit will be provided to only one eligible household and that the ETC is responsible for verifying that there are not multiple benefits being paid to a single

household. The language also adopts the FCC's definition of a household and the documentation required to ensure the one per household rule is being followed.

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in adopting a definition of household and the FCC's documentation requirements to ensure OLF benefits are limited to one per household? If so, please explain.

**Change No. 7:**

17 O.S. § 139.105(I)

**Description / Purpose:** This language is added to reflect that the requirement for initial and annual verification of eligibility will, at some point in the future, be the responsibility of the National Verifier. Until that time, the verification remains the responsibility of the ETC. Please note that the current statute has two subsections denoted as "(I)." The second subsection (I) is proposed to be changed to (J)

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in including language recognizing that the National Verifier will, at some point, be responsible for the verification function. If so, please explain.

**Change No. 8:**

17 O.S. § 139.105(J) (proposed to be re-designated as (K))

**Description / Purpose:** Given the current appearance of two subsections (I) and the proposal to change to the second one to (J), as referenced above, means this section should be changed to 17 O.S. § 139.105(K).

Substantively, it is proposed to modify this language to move the OLF support from the current \$0.02 per month per Lifeline subscriber to \$10.00 per month per Lifeline subscriber residing on non-Tribal areas and federally designated Tribal lands that are not eligible for the federal enhanced support, to the extent any such Tribal lands exist. For those Lifeline subscribers residing on Tribal lands that are eligible for the federal enhanced support, the amount of OLF support would be limited to \$1.00 per month per Lifeline subscriber. This increase in OLF support is proposed as federal actions have decreased and will continue to decrease the amount of federal Lifeline support or, in the alternative, increase the cost to provide the minimum level of Lifeline service, available to eligible Oklahomans.

Additionally, the new requirement in this section that all ETCs, most of which participate in the federal fund only, are to participate in the OLF will create additional administrative expenses for the ETCs.

**Request for Comment:**

- A. Are the proposed increases in OLF support reasonable? If not, please explain. Are there alternative amounts that would be more reasonable?

- B. Should the current level of support be maintained? If so, please identify the benefits of maintaining the status quo.
- C. Are there any anticipated changes to federal low-income rules that will result in increased federal Lifeline support or reductions in the cost to provide Lifeline services? Please describe all such changes.

**IV. Description of Proposed Changes – Section 139.106 (attached hereto as *Attachment D*)**

The proposed changes in this section are intended to facilitate discussion and consideration of fundamental changes to the way in which OUSF support for Primary Universal Services are to be made available.

One such change is the proposal to eliminate the existing 17 O.S. § 139.106(K) which currently prohibits any type of rate case or earnings investigation by the Commission (or the Administrator) in considering requests under this subsection. The proposed changes provide that the events that trigger 17 O.S. § 139.106(K) will become subject to an earnings investigation for a determination that such requests are reasonable and in the public interest. The changes also recognize that there is a subset of these types of requests, specifically related to infrastructure expenditures and costs associated with required, adds, moves or additions of facilities that should continue to be subject to a thorough detailed cost review.

Another change is the inclusion of language which would introduce the option to seek OUSF support based on a total company review (consideration of regulated costs, revenues and expenses for the regulated company regardless of jurisdictional classifications).

**Change No. 1:**

17 O.S. § 139.106(A)

**Description / Purpose:** In addition to the administrative changes to reflect capitalizations for defined terms, language is added to clarify that the OUSF provides funding to 1) Eligible Local Exchange Telecommunications Service Providers for Primary Universal Services pursuant to 17 O.S. § 139.106; 2) Eligible Telecommunications Carriers pursuant to 17 O.S. § 139.105 (i.e., Lifeline); and 3) Eligible Providers pursuant to 17 O.S. § 139.109.1 (i.e., Special Universal Services). This language also establishes January 31, 2021 as the deadline for the Commission to promulgate rules implementing the changes to the OUSF being proposed by the language in this Section.

**Request for Comment:**

- A. Does this proposed language fail to add clarity or could it be amended differently? Please describe any perceived failures or provide any alternative language that would better impart this clarity.
- B. Is there any reason the statutory language should not be adjusted to clarify the entities, as they are defined in the statute, that are eligible for support under the three OUSF mechanisms? If so, please describe such reasons.
- D. Is January 31, 2021 a reasonable deadline for the Commission to promulgate rules to implement the proposed changes to the OUSF? If not, please explain and provide an alternative date for consideration.

**Change No. 2:**

17 O.S. § 139.106(B)

**Description / Purpose:** This language, in addition to adding similar clarifying language as in 17 O.S. § 139.106(A) above regarding which defined entities are eligible for funding under the three mechanisms that make up the OUSF, recognizes the importance of minimizing regulatory uncertainty with regard to OUSF support for Primary Universal Services. Further, the language limits the applicability of the OUSF support for Primary Universal Services to Eligible Local Exchange Telecommunications Service Providers that also have Carrier of Last Resort Obligations.

**Request for Comment:**

- A. Is this language adequate to minimize regulatory uncertainty? Is there additional or alternative language that would better meet this goal? Please explain and provide any suggested language.
- B. Is it appropriate to limit the availability of OUSF support for Primary Universal Services to those entities with COLR obligations? If not, please describe and identify any shortcomings of such a limitation.

**Change No. 3:**

17 O.S. § 139.106(C) [EXISTING]

**Description / Purpose:** The proposal is to delete this introductory language as the OUSF funding methodology is found at 17 O.S. § 139.107.

**Request for Comment:**

- A. Is there any reason this language needs to remain in this section? Please explain.

**Change No. 4:**

17 O.S. § 139.106(D)(1) to be changed to 17 O.S. § 139.106(C)(1)

**Description / Purpose:** Due to the proposal to strike the existing 17 O.S. § 139.106(C), this subsection would be re-designated as "(C)(1)." Additionally, the language sets up the introduction of subparts (C)(1)(a) through (C)(1)(d) which will establish separate descriptions of the timing to process requests for OUSF funding for each of the request types (i.e., for OLF funding under Section 139.105; for Special Universal Service funding under Section 139.109.1 and for Primary Universal Service funding under Sections 139.106(F) and (J)).

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in adopting this language? If so, please explain.

**Change No. 5:**

17 O.S. § 139.106(C)(1)(a)

**Description / Purpose:** This new language specifies that requests for OLF funding will be processed (to include the Administrator issuing a determination) within ninety (90) days of receipt of the request.

**Request for Comment:**

- A. Are there any concerns or issues with creating this specific timing for processing requests for OLF funding? If so, please explain.
- B. Are there any concerns or issues with the use of the ninety (90) day processing time? If so, please explain and, if a different time is proposed, please identify the benefits of the alternative processing time.
- C. Given the nature of Lifeline service, should there be language specifically allowing the Administrator's determination to specify the treatment of ongoing monthly requests for support as the number of Lifeline subscribers changes? If so, please provide proposed language.

**Change No. 6:**

17 O.S. § 139.106(C)(1)(b)

**Description / Purpose:** This new language specifies that requests for OUSF funding for Special Universal Services will be processed (to include the Administrator issuing a determination) within ninety (90) days.

**Request for Comment:**

- A. Are there any concerns or issues with separately identifying this ninety (90) day processing time for requests for support for Special Universal Services?

**Change No. 7:**

17 O.S. § 139.106(C)(1)(c)

**Description / Purpose:** This language, which consists of both new and amended language, establishes the time for processing requests for Primary Universal Services funding. Additionally, the proposed language changes the current ninety (90) day processing time for these requests to one hundred and twenty (120) days. This change is intended to ensure adequate time for the review process that is required in these cases. Further, a mechanism is added to make any payments made, due to a failure by the Administrator to issue a determination within the specified time frame, to be interim in nature subject to refund with interest for the first ninety (90) days.

**Request for Comment:**

- A. Is a processing time of one hundred and twenty (120) days for these types of cases unreasonable? If so, please explain and support any alternative processing time suggested.
- B. Are there problems to be considered with regard to establishing an interim payment mechanism (applicable only when the Administrator fails to issue a determination within the one hundred and twenty (120) day time line) to include possible refund with interest, particularly problems or issues that

outweigh the benefit to the OUSF of ensuring that awarded funding is based on a thorough and complete review? If so, please describe, particularly any burdens that could be created for the applicants and / or their customers or contributors to the OUSF.

**Change No. 8:**

17 O.S. § 139.106(C)(1)(d) (language currently at § 139.106(D)(3))

**Description / Purpose:** In addition to the administrative change from a reference to “Section 6” to a cite to the specific statutory section that is specific to requests for OUSF support for the provision of Special Universal Services, the first sentence is modified to reflect that this section specifically addresses requests for funding in cases where a “pre”-approval funding letter has been issued. The current language does not make clear that the described process involves a pre-approval funding letter.

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in adopting this language? If so, please explain.

**Change No. 9:**

17 O.S. § 139.106(C)(3) (language currently at § 139.106(D)(5))

**Description / Purpose:** The intention is to introduce language that identifies the determination reconsideration process for each type of request (i.e., OLF requests, Special Universal Service requests, and Primary Universal Service requests). The actual process that addresses the situation where there is no a Final Order after 30 days of the filing of a request for reconsideration as well as after 120 days of filing, remains the same for all three types of requests for funding. It is believed this adds clarity to the statute.

The processes for each request type are indicated in the new subparagraphs § 139.106(C)(3) a, b, and c.

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in adopting this language and / or structure? If so, please explain.

**Change No. 10:**

17 O.S. § 139.106(F)(1) (language currently at § 139.106(G))

**Description / Purpose:** This language re-designates the former § 139.106(G) as § 139.106(F)(1). While this paragraph continues to introduce the availability of OUSF support for Eligible Local Exchange Telecommunications Service Providers in order to maintain reasonable and affordable rates for Primary Universal Services, new language is introduced that would allow such funding to be limited to Eligible Local Exchange Telecommunications Service Providers with Carrier of Last Resort (“COLR”) obligations as well as limiting such funding to areas lacking unsubsidized Primary Universal Services.

Language is also added to allow for a challenge process as to the presence of unsubsidized Primary Universal Services.

**Request for Comment:**

- A. Is it appropriate to limit the availability of OUSF support for Primary Universal Services to those Eligible Local Exchange Telecommunications Service Providers with COLR obligations? If not, identify any problems with such a limitation.
- B. Are there consumer benefits to be realized by having OUSF support for Primary Universal Services available to all Eligible Local Exchange Telecommunications Service Providers?
- C. What metric(s) would be appropriate to accurately determine whether or not there are Primary Universal Services available in a particular geographic area? Please include details of how such metrics would be developed, relevant data needed and how such data would be collected.
- D. How should a geographic area be defined for consideration of the presence of an unsubsidized provider of Primary Universal Services? What are the benefits of any particular geographic definition, particularly relative to ease of identification, granularity, and resources required?
- E. What documentation or other proof should be required to establish that Primary Universal Service is either available or not available from an unsubsidized Eligible Local Exchange Telecommunications Service Provider?
- F. How should the challenge process work? Should the Administrator review and rule on any such challenges? Should such challenges be subject to exceptions and be reviewed by the Commission?
- G. What negative and/or positive outcomes could result from an Incumbent Local Exchange Telecommunications Service Provider being allowed to elect to relinquish its COLR obligations for areas in which unsubsidized Primary Universal Service is available?

**Change No. 11:**

17 O.S. § 139.106(F)(1)(a) (language currently at § 139.106(G)(1))

**Description / Purpose:** Language is added to include intrastate regulated revenues as a source of revenues that would be considered when reviewing investments and expenses associated with a request for Primary Universal Service funding. Language is also added to provide a reference to 139.106(G)(1)(d) which provides for an optional total company review.

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in adopting this language? If so, please explain.

**Change No. 12:**

17 O.S. § 139.106(F)(1)(d) (language currently at § 139.106(G)(4))

**Description / Purpose:** This language is intended to clarify that this funding option involves reimbursement for credits given in conjunction with the provision of Special Universal Services and provides a more specific cite to the statutory section governing Special Universal Services.

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in adopting this language? If so, please explain.

**Change No. 13:**

17 O.S. § 139.106(G)(5) (current language)

**Description / Purpose:** The proposal is to delete this subparagraph as 17 O.S. § 139.107(B) already addresses recovery of costs of administration. There is also a proposed edit to 17 O.S. § 139.107(B) that captures this concept.

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in adopting this language? If so, please explain.

**Change No. 14:**

17 O.S. § 139.106(F)(1)(e) (new language)

**Description / Purpose:** The intent of this new language is to include requests for reimbursement for the impact of orders, rules or policies of the FCC that impact intrastate costs or revenues within the list of circumstances for which OUSF support can be requested in conjunction with the provision of Primary Universal Services. This change is necessitated due to a companion change proposed for 17 O.S. § 139.106(K) in which the existing subsection K is proposed to be repealed. In combination, these changes will not eliminate the consideration of the impacts of FCC orders, rules or policies but will require such impacts be subject to an earnings investigation and determination of an under-earning status.

**Request for Comment:**

- A. Does this language accurately transfer those circumstances associated with FCC activity currently addressed in 17 O.S. §139.106(K)(1)(a)?
- B. What impacts could this change have on Eligible Local Exchange Telecommunications Service Providers that experience changes based on FCC's rules, orders or policies? The customers they serve?
- C. What problems or concerns exist with adopting the proposal to limit consideration of the impact of FCC rules, orders or policies on intrastate costs or revenues for purposes of OUSF support for Primary Universal Services? Please identify examples of FCC orders, rules or policies that would impact interstate revenues only.
- D. To the extent there are instances where the impact would be limited to interstate costs or revenues, how do those instances impact the ability of an

Eligible Local Exchange Telecommunications Service Provider to provide  
Primary Universal Services?

**Change No. 15:**

17 O.S. § 139.106(F)(1)(f) (new language)

**Description / Purpose:** The intent of this new language is to include requests for reimbursement for the impact of orders, rules or policies of any required changes in federal or state regulatory rules, orders, or policies or federal or state law that impact intrastate costs or revenues within the list of circumstances for which OUSF support can be requested in conjunction with the provision of Primary Universal Services. This change is necessitated due to a companion change proposed for 17 O.S. § 139.106(K) in which the existing subsection K is proposed to be repealed. In combination, these changes will not eliminate the consideration of the impacts of FCC orders, rules or policies but will require such impacts be subject to an earnings investigation and determination of an under-earning status.

**Request for Comment:**

- A. Does this language accurately transfer those circumstances associated with state or federal regulatory or federal or state law activity currently addressed in 17 O.S. § 139.106(K)(1)(b)?
- B. What impacts could this change have on Eligible Local Exchange Telecommunications Service Providers that experience changes based on state or federal regulatory rules, orders or policies or federal or state law? The customers they serve?
- C. What problems or concerns exist with adopting the proposal to limit consideration of the impact of federal or state regulatory rules, orders or policies or federal or state law on intrastate costs or revenues for purposes of OUSF support for Primary Universal Services? Please identify examples of state or federal orders, rules or policies or federal or state law that would impact interstate revenues only.
- D. To the extent there are instances where the impact would be limited to interstate costs or revenues, how do those instances impact the ability of an Eligible Local Exchange Telecommunications Service Provider to provide Primary Universal Services?

**Change No. 16:**

17 O.S. § 139.106(F)(2) (new language)

**Description / Purpose:** The intent of this new language is to capture the current requirement found at 17 O.S. § 139.106(K)(1)(c) wherein a reduction in costs, as a result of a federal or state regulatory rule, order, or policy or by federal or state law, can result in the reduction in the amount of OUSF funding if necessary to maintain an approved earnings level.

**Request for Comment:**

- A. Does this language accurately transfer those circumstances associated with FCC activity currently addressed in 17 O.S. §139.106(K)(1)(c)?
- B. What impacts could this change have on Eligible Local Exchange Telecommunications Service Providers that experience changes based on state or federal regulatory rules, orders or policies or federal or state law? The customers they serve?
- C. What problems or concerns exist with adopting the proposal to limit consideration of the impact of federal or state regulatory rules, orders or policies or federal or state law on intrastate costs or revenues for purposes of OUSF support for Primary Universal Services? Please identify examples of state or federal orders, rules or policies or federal or state law that would impact interstate revenues only.
- D. To the extent there are instances where the impact would be limited to interstate costs or revenues, how do those instances impact the ability of an Eligible Local Exchange Telecommunications Service Provider to provide Primary Universal Services?

**Change No. 17:**

17 O.S. § 139.106(F)(3) (new language)

**Description / Purpose:** The intent of this new language is to make clear that, with the exception of support for Lifeline services and reimbursement for certain required infrastructure expenditures, all funding from the OUSF will be subject to an earnings investigation and such funding is tied to reasonable and affordable local service rates and the provision of reasonably comparable services at affordable rates in rural areas as in urban areas.

**Request for Comment:**

- A. What concerns or issues does this create for Eligible Local Exchange Telecommunications Service Providers that currently rely on 17 O.S. § 139.106(K), and its prohibition of any type of earnings investigation to address lost revenues associated with FCC actions or state / federal regulatory changes or changes in law?
- B. To the extent such earnings investigation is limited to intrastate costs and revenues, what problems or concerns exist as to how such an earnings investigation could impact the Eligible Local Exchange Telecommunications Service Provider's provision of Primary Universal Services.

**Change No. 18:**

17 O.S. § 139.106(F)(4) (new language)

**Description / Purpose:** The intent of this new language is to put in place a requirement that any current OUSF funding being received for any purpose, other than Lifeline service, infrastructure expenditures (e.g., highway relocates), or Special Universal Services, would cease until such time as the impacted Eligible Local Exchange Telecommunications

Service Provider chooses to file an application for an earnings investigation. The language provides an extended period of time (180 days) for funding to cease in the event the impacted Eligible Local Exchange Telecommunications Service Provider applies for an earnings investigation within 30 days of the enactment of this subsection. The language also provides for an imputation process, with associated true-ups, in order for the impact of the cessation to be considered in the most recent cost study. Funding associated with the Oklahoma High Cost Fund is specifically addressed with language providing that OUSF support being received due to the abolishment of the Oklahoma High Cost Fund will cease at the end of the transition period established in the Commission's order. It is intended that subsequent support for funding formerly received under the Oklahoma High Cost fund could be considered in an earnings investigation.

It is believed that such treatment would benefit, as well as sustain, the integrity of the OUSF with regard to its support of Primary Universal Services. There has been considerable criticism of the statute due to the lack of an earnings investigation for those applications under 17 O.S. § 139.106(K). By establishing a mechanism with which to perform an earnings investigation for specific existing OUSF funding, for those Eligible Local Exchange Telecommunications Service Providers that chose to continue such OUSF funding, the Administrator, the Commission and the public can be assured that the OUSF funding being provided is necessary for the provision of Primary Universal Service.

**Request for Comment:**

- A. What concerns or issues does this create for Eligible Local Exchange Telecommunications Service Providers that currently rely on OUSF funding, other than for infrastructure reimbursements, under 17 O.S. § 139.106(K)?
- B. If this language is adopted, does the imputation and true up mechanism adequately provide for timely consideration of applications under this subsection? Are there other mechanisms that would be more effective or required in addition?
- C. What impact(s) could this proposed change have on the customers being served by the impacted Eligible Local Exchange Telecommunications Service Provider?

**Change No. 19:**

17 O.S. § 139.106(G)(1) (currently § 139.106(H))

**Description / Purpose:** This subsection is being modified to make clear that an earnings investigation is to be performed and will consider the costs and revenues associated with the provision of Primary Universal Service. The current introductory language to the alternative methods available for an Eligible Local Exchange Telecommunications Service Provider to demonstrate its costs and revenues is maintained.

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in adopting this language? If so, please explain.

**Change No. 20:**

17 O.S. § 139.106(G)(1)(a) (currently § 139.106(H)(1))

**Description / Purpose:** The proposed modification to this subsection, in addition to its designation being changed to (a) from (1), is simply typographical in nature. This paragraph continues to provide for the use of a fully distributed allocation of embedded costs and revenue using fully distributed FCC parts 32, 36 and 64, to the extent they are applicable.

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in adopting this language? If so, please explain.

**Change No. 21:**

17 O.S. § 139.106(G)(1)(b) (currently § 139.106(H)(2))

**Description / Purpose:** The proposed modification to this subsection, in addition to its designation being changed to (b) from (2), is simply typographical in nature. This paragraph continues to provide for the use of an adopted cost study approved by the Commission.

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in adopting this language? If so, please explain.

**Change No. 22:**

17 O.S. § 139.106(G)(1)(c) (currently § 139.106(H)(3))

**Description / Purpose:** The proposed modification to this subsection, in addition to its designation being changed to (c) from (3), is simply typographical in nature. This paragraph continues to provide for the use of an alternative costing or measurement method established by the FCC.

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in adopting this language? If so, please explain.

**Change No. 23:**

17 O.S. § 139.106(G)(1)(d) (new language)

**Description / Purpose:** This language proposes to allow for a “total company” review as one option an Eligible Local Exchange Telecommunications Service Provider could utilize to identify its embedded investments and expenses for purposes of seeking OUSF support for the provision of Primary Universal Services. Such a method would remove the jurisdictional limitation (i.e., intrastate) on consideration of costs, investments and revenues.

**Request for Comment:**

- A. What benefits would the availability of this “total company” methodology provide? For instance, are there situations where a “total company” review for consideration of reductions in revenue or increases in costs based on changes in federal rules, orders, or policy or laws would provide a more accurate or reasonable result in the determination of OUSF funding for Primary Universal Service?
- B. What problems could result from the acceptance of a “total company” review methodology?
- C. Are there additional items or issues that should be considered in implementing a “total company” review? Please identify any specific language that would be necessary to address any such items or issues.

**Change No. 24:**

17 O.S. § 139.106(G)(2) (new language)

**Description / Purpose:** This language provides an introduction to subparagraphs that comprise a non-exhaustive list of investments and expenses for which the Administrator, or the Commission, on reconsideration, could make a determination of reasonableness.

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in adopting this language? If so, please explain.

**Change No. 25:**

17 O.S. § 139.106(G)(2)(a)(i) through (vii) (new language)

**Description / Purpose:** The language in this subparagraph identifies eight specific areas of investment and expenses for which the reasonableness standard would apply; 1) affiliate transactions; 2) employee compensation; 3) investment in network; 4) investment in operations; 5) operational expenses; 6) legal / regulatory expenses; 7) marketing and community outreach expenses; and 8) depreciation expense. The language also makes clear that this is not an exhaustive list of investments or expenses for which a determination of reasonableness could be undertaken.

**Request for Comment:**

- A. Are there any reasons that these identified areas should not be subject to review for reasonableness? If there are certain circumstances in which reasonableness in a particular area would not be appropriate, please identify all such circumstances.
- B. Are there additional areas that should be specifically identified as subject to a determination of reasonableness? Please identify all such areas.

**Change No. 26:**

17 O.S. § 139.106(G)(2)(b)(i) through (ii) (new language)

**Description / Purpose:** The language in this subparagraph identifies two sources of revenue that, in certain circumstances, may be imputed to a company seeking OUSF support for Primary Universal Service. These two areas are; 1) retail rates below the FCC's last rate floor benchmark or any standard Oklahoma rate floor that might be established; and 2) failure to secure funding from reasonably available state or federal funding sources that are for the provision of universal service.

**Request for Comment:**

- A. Are there any reasons that these identified areas should not be subject to imputation? If there are certain circumstances in which imputation would not be appropriate, please identify all such circumstances.
- B. Are there additional revenues that should be subject to imputation? Please identify all such revenues.

**Change No. 27:**

17 O.S. § 139.106(H) (currently § 139.106(I))

**Description / Purpose:** The proposed modifications to this subsection, in addition to its designation being changed to (H) from (I), are generally typographical in nature. Language is added to except the "total company" review introduced in Subsection G(1)(d) of this Section.

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in adopting this language? If so, please explain.

**Change No. 28:**

17 O.S. § 139.106(J)(1) through (i)(3) (new language)

**Description / Purpose:** The purpose of the proposed modifications to this subsection are to establish a process under which requests for OUSF funding for Primary Universal Service in conjunction with the addition, move or change of Facilities pursuant to F(1)(b) are to be considered. This section does the following; 1) identifies in (J)(1)(a) through (f), the information that must be shown in order for a request for OUSF support to be approved; 2) clarifies in (J)(2) that a determination will be made as to an applicant's compliance with (J)(1)(a) through (f) and identifies the timelines for making a determination with regard to such a request and any subsequent reconsiderations; and 3) specifies that any deficiencies in (J)(1)(a) – (f) will be identified in any determination and may include adjusting the reimbursement amount based on such deficiencies.

Generally this language, as well as the language in the entirety of this subsection, is intended to recognize that Facility adds, move and/or changes can be exempt from an earnings review process and, instead, can be reviewed to ensure the request is associated with a governmental mandate and the costs to be reimbursed are properly supported and documented. These would be the same Facilities adds, moves or changes that are currently addressed under 17 O.S. § 139.106(K), which, again, is proposed to be repealed.

**Request for Comment:**

- A. Are there any other factors that should be identified for consideration in the review of OUSF funding requests for Facility adds, moves and/or changes?
- B. Are there any concerns or issues with the factors that are identified in the proposed language?
- C. Is this proposed process more or less limiting than the current treatment of funding requests for Facility adds, moves and/or changes under 17 O.S. § 139.106(K)? More or less burdensome? Please explain.

**Change No. 29:**

17 O.S. § 139.106(K) (REPEAL)

**Description / Purpose:** As indicated elsewhere, the proposal is to repeal 17 O.S. § 139.106(K) in its entirety. If this proposal is adopted, requests for OUSF funding for Primary Universal Service will be treated in accordance with the applicable processes and procedures specified in the revised version of 17 O.S. §§ 139.106(C)(1)(c), (C)(4)(c), (F), (G), (H) and (J).

**Request for Comment:**

- A. Notwithstanding the revised review standard, are there any circumstances for which 17 O.S. § 139.106(K) currently allows for OUSF funding that, if repealed, would not be accommodated under one of the remaining revised sections of 17 O.S. 106?
- B. Would the proposed repeal of § 139.106(K) create any negative impacts on consumers? Please explain and, if possible, quantify.
- C. To the extent there are negative impacts on consumers, please explain how the revised §§ 139.106(C)(1)(c), (C)(4)(c), (F), (G), (H) and (J) are not sufficient to mitigate any such negative consumer impacts.
- D. Are there events other than Facility adds, moves and/or changes that are currently addressed under § 139.106(K) that should be considered via a specific review process that does not involve an earnings investigation? If so, please identify and explain how an earnings investigation would not be appropriate, effective, and/or efficient in each such case.

**Change No. 30:**

17 O.S. § 139.106(L) (REPEALED)

**Description / Purpose:** It is proposed to repeal this subparagraph as the timing for issuing a determination for a request for OUSF funding for Primary Universal Service is found at 17 O.S. § 139.106(C)(4).

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in repealing this subparagraph? If so, please explain.

**Change No. 31:**

17 O.S. § 139.106(N)(1)(a) (edits to existing paragraph)

**Description / Purpose:** Language is proposed to be added to require that, in order for an alternative Local Exchange Telecommunications Service Provider to be designated as eligible for OUSF funding for Primary Universal Service, such Local Exchange Telecommunications Service Provider must be designated as an Eligible Telecommunications Carrier (“ETC”). This would put the other Local Exchange Telecommunications Service Provider on the same footing as the Incumbent.

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in adopting this language? If so, please explain.

**Change No. 32:**

17 O.S. § 139.106(N)(1)(e) (edits to existing paragraph)

**Description / Purpose:** Language is proposed to be added to require that specifically indicates that the public interest analysis when considering the designation of other Local Exchange Telecommunications Service Providers as eligible for Primary Universal Service OUSF funding, will include consideration of whether or not the other Local Exchange Telecommunications Service Provider has a COLR obligation in the area in which funding is being requested. It is also proposed to add language that allows consideration of whether or not Primary Universal Service is already available from a qualified provider in the area being requested.

**Request for Comment:**

- A. What benefits would there be in considering, as part of the public interest analysis, whether or not an alternative provider seeking to be eligible for OUSF funding for Primary Universal Services has a Carrier of Last Resort obligation where it is requesting to be deemed eligible? What detriments?
- B. Should a review of the public interest for such eligibility include consideration of the current availability of Primary Universal Services in the area for which eligibility is requested? If not, please explain.
- C. In considering the current availability of Primary Universal Services in a particular area, what documentation / information should be reviewed (e.g., tariffs, websites, surveys, etc.)?
- D. Would consideration of the current availability of Primary Universal Services be more efficient if the challenge process were such that detailed proof of the *existence* of Primary Universal Service from a qualified provider were required.
- E. Should language be added that specifically prohibits the grant of eligibility to another Local Exchange Telecommunications Service Provider if the Incumbent Local Exchange Telecommunications Service Provider has not relinquished its eligibility?

**Change No. 33:**

17 O.S. § 139.106(N)(2) (edits to existing paragraph)

**Description / Purpose:** Language is proposed to be added to clarify that a commercial mobile radio service (CMRS) provider can be eligible, after notice and hearing, to seek reimbursement from the OUSF for supported services consistent with § 139.106 without being designated as an Eligible Local Exchange Telecommunications Service Provider. However, such a CMRS provider would need to be designated as an Eligible Telecommunications Carrier for such eligibility. Language is also added to clarify that it is Eligible Telecommunications Carriers that are eligible for OUSF support for the provision of Lifeline service, and Eligible Providers or CMRS providers may seek reimbursement from the OUSF for the provision of Special Universal Services.

**Request for Comment:**

- A. What problems, if any, would be created by requiring a CMRS provider to have ETC designation in order to be eligible for OUSF funding pursuant to § 139.106?
- B. Are there any reasons a CMRS provider should not be eligible at all for OUSF funding pursuant to § 139.106? Please explain.

**Change No. 34:**

17 O.S. § 139.106(O) (edits to existing paragraph)

**Description / Purpose:** This proposed language is intended to make clear that an existing Local Exchange Telecommunications Service Providers can choose to relinquish their eligibility to received OUSF support pursuant to § 139.106 and ETC designation when there is another eligible Local Exchange Telecommunications Service Provider with COLR obligations with eligibility to receive OUSF support pursuant to § 139.106 in the area for which the relinquishment is requested. Language is also added to clarify that the reference to Section 214(e)(4) of the federal Telecommunications Act of 1996 is specific to relinquishment of ETC designation.

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in adopting this language? If so, please explain.
- B. Should an existing Local Exchange Telecommunications Service Provider be able to relinquish their eligibility to receive OUSF support pursuant to § 139.106 without the presence of another eligible Local Exchange Telecommunications Service Provider with COLR obligation and, based on the proposed new language, ETC designation?

**Change No. 35:**

17 O.S. § 139.106(P)(1) (edits to existing paragraph)

**Description / Purpose:** These proposed edits are intended to add clarity by identifying the specific defined entity types, Eligible Providers and Eligible Telecommunications Carriers, that receive funding for Special Universal Services and Lifeline service respectively.

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in adopting this language? If so, please explain.

**Change No. 36:**

17 O.S. § 139.106(P)(2) (edits to existing paragraph)

**Description / Purpose:** These proposed edits are intended to make clear that this paragraph is specific to the situation where the Incumbent Local Exchange Telecommunications Service Provider has waived its right to be the only recipient of OUSF funding for Primary Universal Service within its local exchange territory.

**Request for Comment:**

- A. Are there any concerns or issues that should be considered in adopting this language? If so, please explain.

**Change No. 37:**

17 O.S. § 139.106(P)(3) (edits to current paragraph)

**Description / Purpose:** These proposed edits are intended to limit the designation of an alternative Local Exchange Telecommunications Service Provider to those instances where the Incumbent Local Exchange Telecommunications Service Provider has waived its right to be the only recipient of OUSF funding for the provision of Primary Universal Services. The language also requires that any such other Local Exchange Telecommunications Service Provider be an ETC and have COLR obligations.

**Request for Comment:**

- A. Is it appropriate to limit the ability of another Local Exchange Telecommunications Service Provider to be granted eligibility to receive OUSF support for Primary Universal Service to those instances where the Incumbent has waived its right?
- B. Is it appropriate to require another Local Exchange Telecommunications Service Provider to have ETC designation and COLR obligations in order to be considered for grant of eligibility to receive OUSF funding for the provision of Primary Universal Service?

V. **Description of Proposed Changes – Section 139.107** (attached hereto as *Attachment E*)

The proposal is to move language that is currently located at 17 O.S. § 139.106(G)(5) to this Section as it is more appropriate to include the coverage of administrative costs within the section of the statute that specifically discusses the level of funding for the OUSF.

**Change No. 1:**

17 O.S. § 139.107(B) (edits to existing section)

**Description / Purpose:** Proposed language mirrors language elsewhere in the statute and specifies that administrative costs include an annual independent audit and that such an audit will not be performed by Commission staff.

**Request for Comment:**

- A. Are any concerns or issues with moving this language from § 139.106(G)(5) to § 139.107(B)? Please explain.
- B. Does the proposed language accurately reflect the language currently found at § 139.106(G)(5)? If not, what changes are necessary?

**VI. Description of Proposed Changes – Section 139.110** (attached hereto as *Attachment F*)

The proposed language is intended to clarify that, even though this section currently prescribes that the Commission cannot impose regulation on high speed Internet access service, this prohibition does not currently prohibit the Commission from approving funding for Primary and Special Universal services even though those components of the OUSF involve, to varying degrees, Broadband Internet Service. Language is also amended to change the current reference to “high speed Internet access service” to “Broadband Internet Service” which is now defined in the definitions at 17 O.S. § 139.102(4). Additional language is added to specify that this section’s prohibition on the ability of the Commission to regulate Broadband Internet Service is broadened to specifically include IP-enabled Services, which includes VoIP service. Both of these terms are defined in 17 O.S. § 139.102.

Language is added to establish two exceptions to this prohibition, first it does not relate to the applicability of the OUSF assessment to VoIP providers consistent with 139.107(A) and, second, in those instances where a provider of IP-enabled Services voluntarily seeks a CCN from the Commission, in which case the Commission does have regulatory authority over such providers. Language is also added to clarify that the prohibition does not restrict the OUSF Administrator or Commission from determining the appropriateness of OUSF funding for the provision of Primary Universal Services or Special Universal Services.

**Change No. 1:**

17 O.S. § 139.110(A) (edits to existing section)

**Description / Purpose:** Language is added to clarify exceptions to the current prohibition on the Commission’s ability to regulated high speed Internet access service. These clarifications address the Commission’s ability to approve OUSF funding for Primary and Special Universal Services which can involve the provision of Broadband Internet Service (again, this is a newly defined term). This language also makes clear that the prohibition is not applicable to the Commission’s authority as it relates to the OUSF assessment and its applicability to VoIP services.

**Request for Comment:**

- A. Do these exceptions clarify current practices under the existing statute?
- B. Are there other exceptions that would be appropriate? If so, please identify.
- C. Do these exceptions alter the current prohibition on the Commission’s ability to regulate broadband or Internet access service generally?

**Change No. 2:**

17 O.S. § 139.110(D) (new section)

**Description / Purpose:** This new language establishes an exception to the prohibition on the Commission's authority to regulate IP-enabled service providers, to include VoIP providers, for those instances where providers voluntarily seek a CCN from the Commission. In those cases and for those providers, the Commission will have its full regulatory authority as with any provider of telecommunications services.

The new language also recognizes that a provider of IP-enabled services that seeks a CCN for the limited purpose of providing Special Universal Services and receiving the related OUSF funding, is not voluntarily subjecting itself to regulation as a telecommunications service provider.

**Request for Comment:**

- A. Should the grant of a CCN be technologically neutral?
- B. Does this proposed language alter the current prohibition on the Commission's ability to regulate broadband or Internet access service generally?
- C. Is it appropriate to tie the benefit of holding a CCN to the regulatory requirements associated with a telecommunications service provider when there is a voluntary request for a CCN?

Respectfully submitted,



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## Section 139.102 - Title 17. Corporation Commission

As used in the Oklahoma Telecommunications Act of 1997:

1. "Access ~~line~~ Line" means the ~~facilities~~ Facilities provided and maintained by a telecommunications service provider which permit access to or from the ~~public-switched network~~ Public Switched Network or its functional equivalent regardless of the technology or medium used. Such Facilities may include the end user loop component and functionality, which allow access to the Internet, including access to combined consumer voice and Broadband Internet Service;
2. "Administrative process" means an administrative application process which allows ~~eligible local-exchange-telecommunications-providers~~ Eligible Local Exchange Telecommunications Service Providers, Eligible Telecommunications Carriers and eligible providers Eligible Providers to request funding and an administrative submission process that allows Oklahoma Universal Service Fund Beneficiaries to submit a preapproval request directly with the Administrator. Both of the administrative processes shall not require an order from the Commission to determine eligibility for, allocate or disburse funds unless a request for reconsideration is filed;
3. "Administrator" means the Director of the Public Utility Division of the Corporation Commission;
4. "Broadband Internet Service" means those services and underlying Facilities that provide upstream from customer to provider, or downstream from provider to customer, transmission to or from the Internet in excess of one hundred fifty (150) kilobits per second, regardless of the technology or medium used including, but not limited to, wireless, copper wire, fiber optic cable, or coaxial cable, to provide such service;
5. "Carrier of Last Resort" or "COLR" means each incumbent LEC, its successors and assigns, serving fewer than seventy-five thousand access lines in Oklahoma on the date of the adoption of the Federal Telecommunications Act of 1996;
- 4.6. "Commission" means the Corporation Commission of this state;
- 5.7. "Competitive local-exchange-carrier Local Exchange Carrier" or "CLEC" means, with respect to an area or exchange, a telecommunications service provider that is certificated by the Commission to provide local exchange services in that area or exchange within the state after July 1, 1995;
- 6.8. "Competitively neutral Neutral" means not advantaging or favoring one person or technology over another;
- 7.9. "Consortium" means, as used in Section ~~6-139.109.1~~ 139.109.1 of this ~~aet-Act~~ Act, two or more Oklahoma Universal Service Fund Beneficiaries that choose to request support under the Federal Universal Service Support Mechanism or successor program or programs as a single entity;

~~8.10.~~ "Contributing providers-Providers" means providers, including but not limited to: providers of intrastate telecommunications, providers of intrastate telecommunications for a fee on a non-common-carrier basis, providers of wireless telephone service and providers of interconnected Voice over Internet Protocol (VoIP). ~~Contributing providers-Providers~~ shall contribute to the Oklahoma Universal Service Fund and Oklahoma Lifeline Fund. VoIP providers shall be assessed only as provided for in the decision of the Federal Communications Commission, FCC 10-185, released November 5, 2010, or such other assessment methodology that is not inconsistent with federal law. Entities exempt from contributing to the Federal Universal Service Support Mechanisms are also exempt from contributing to the Oklahoma Universal Service Fund and Oklahoma Lifeline Fund consistent with 47 C.F.R., Section 54.706(d). The term "~~contributing providers~~ Contributing Providers" may be modified to conform to the definition of contributors as defined by the FCC if adopted by the Commission, after notice and hearing;

~~9.11.~~ "Eligible healthcare entity-Healthcare Entity" means a not-for-profit hospital, county health department, city-county health department, not-for-profit mental health and substance abuse facility or Federally Qualified Health Center in Oklahoma. Eligible healthcare entity-Healthcare Entity shall also include telemedicine services provided by the Oklahoma Department of Corrections at facilities identified in Section 509 of Title 57 of the Oklahoma Statutes;

~~10.12.~~ "Eligible local exchange telecommunications service provider-Local Exchange Telecommunications Service Provider" means ILEC, CLEC and commercial radio mobile service provider as those terms are used in the Oklahoma Telecommunications Act of 1997;

13. "Eligible Telecommunications Carrier" or "ETC" means a common carrier designated as such by the Commission in accordance with OAC 165:55-23-2 and 47 U.S.C §§ 254 and 214(e)(2);

~~11.14.~~ "Eligible provider-Provider" means, for purposes of Special Universal Services, providers of telecommunications services which hold a certificate of convenience and necessity and OneNet;

~~12.15.~~ "End User Common Line Charge" means the flat-rate monthly interstate access charge required by the Federal Communications Commission that contributes to the cost of local service;

~~13.16.~~ "Enhanced service Service" means a service that is delivered over communications transmission facilities and that uses computer processing applications to:

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

~~14.17.~~ "Exchange" means a geographic area established by an incumbent local exchange telecommunications provider as filed with or approved by the Commission for the administration of local telecommunications service in a specified area which usually embraces a city, town, or village and its environs and which may consist of one or more central offices together with associated plant used in furnishing telecommunications service in that area;

~~15.18.~~ "Facilities" means all the plant and equipment of a telecommunications service provider, including all tangible and intangible real and personal property without limitation, and any and all

means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with the business of any telecommunications service provider;

- ~~16.19.~~ "Federally Qualified Health Center" or "(FQHC)" means an entity which:
- a. is receiving a grant under Section 330 of the Public Health Service (PHS) Act, 42 U.S.C., Section 254b, or is receiving funding from a grant under a contract with the recipient of such a grant and meets the requirements to receive a grant under Section 330 of the PHS Act,
  - b. based on the recommendation of the Health Resources and Services Administration within the Public Health Service, is determined by the Secretary of the Department of Health and Human Services to meet the requirements for receiving a grant as described in subparagraph a of this paragraph,
  - c. was treated by the Secretary of the Department of Health and Human Services, for purposes of part B of Section 330 of the PHS Act, as a comprehensive federally funded health center as of January 1, 1990, or
  - d. is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act, 25 U.S.C., Section 450f et seq., or by an urban Indian organization receiving funds under Title V of the Indian Health Care Improvement Act, 25 U.S.C., Section 1651 et seq.;

~~17.20.~~ "Federal Universal Service Support Mechanism" is the support program established by the Telecommunications Act of 1996, 47 U.S.C., Section 254(h). The program includes support for schools, libraries and healthcare providers;

~~18.21.~~ "Funding year" means, for purposes of administering the Oklahoma Universal Service Fund, the period of July 1 through June 30;

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

~~20.22.~~ "Hospital" means a healthcare entity that has been granted a license as a hospital by the Oklahoma Department of Health for that particular location;

~~22.23.~~ "Incumbent local exchange telecommunications service provider Local Exchange Telecommunications Service Provider" or "ILEC" means, with respect to an area or exchanges Exchanges, any telecommunications service provider furnishing local exchange service in such area or exchanges Exchanges within this state on July 1, 1995, pursuant to a certificate of convenience and necessity or grandfathered authority;

~~22.24.~~ "Installation charge-Charge" means any charge for a nonrecurring service charged by an eligible provider Eligible Provider necessary to initiate Special Universal Services. Installation

charges may not exceed the cost which would be charged for installation, if the cost were not being paid for by the OUSF;

~~23-25.~~ "Interexchange telecommunications carrier Telecommunications Carrier" or "IXC" means any person, firm, partnership, corporation or other entity, except an ~~incumbent local exchange telecommunications service provider~~ Incumbent Local Exchange Telecommunications Service Provider, engaged in furnishing regulated interexchange telecommunications services under the jurisdiction of the Commission;

~~24-26.~~ "Internet" means the international research-oriented network comprised of business, government, academic and other networks;

~~27.~~ "Internet Protocol-enabled Service" or "IP-enabled Service" means any service, capability, functionality, or application provided using Internet Protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet Protocol format, or any successor format, regardless of whether the communications is voice, data or video;

~~28.~~ "Interconnected Voice over Internet Protocol" or "VoIP" includes both fixed and nomadic versions of the service, with fixed Interconnected Voice over Internet Protocol service able to be used at only one locations, and nomadic Interconnected Voice over Internet Protocol service able to be used at multiple locations. Interconnected Voice over Internet Protocol means a service that:

- a) enables real-time, two-way voice communications;
- (b) requires a broadband connection from the user's location;
- (c) requires Internet protocol-compatible customer premises equipment; and
- (d) permits users generally to received calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

~~25-29.~~ "~~Local exchange telecommunications service~~ Exchange Telecommunications Service" means a regulated switched or dedicated telecommunications service which originates and terminates within an ~~exchange~~ Exchange or an exchange service territory. ~~Local exchange telecommunications service~~ Exchange Telecommunications Service may be terminated by a telecommunications service provider other than the telecommunications service provider on whose network the call originated. The local exchange service territory defined in the originating provider's tariff shall determine whether the call is local exchange service;

~~26-30.~~ "~~Local exchange telecommunications service provider~~ Exchange Telecommunications Service Provider" means a company holding a certificate of convenience and necessity from the Commission to provide local exchange telecommunications service;

~~27-31.~~ "~~Not-for-profit hospital~~ Not-for-Profit Hospital" means:  
a. a hospital located in this state which has been licensed as a hospital at that location pursuant to Section 1-701 et seq. of Title 63 of the Oklahoma Statutes for the diagnosis, treatment, or care of patients in order to obtain medical care, surgical care or obstetrical care and which is established as exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), or

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

~~28.32. "Not for profit mental health and substance abuse facility~~ Not-for-Profit Mental Health and Substance Abuse Facility" means a facility, not for the sole purpose of administration, which is operated by the Department of Mental Health and Substance Abuse Services or a facility certified by the Department of Mental Health and Substance Abuse Services as a Community Mental Health Care Center, a Community-Based Structured Crisis Center or a Community Comprehensive Addiction Recovery Center;

~~29.33. "Oklahoma High Cost Fund"~~ means the fund established by the Commission in Cause Nos. PUD 950000117 and 950000119;

~~30.34. "Oklahoma Lifeline Fund" or "(OLF)"~~ means the fund established and required to be implemented by the Commission pursuant to ~~Section 139.105 of this title~~ this Act;

~~31.35. "Oklahoma Universal Service Fund" or "(OUSF)"~~ means the fund established and required to be implemented by the Commission pursuant to ~~Section 139.106 of this title~~ this Act;

~~32.36. "Oklahoma Universal Service Fund Beneficiary"~~ means an entity eligible to receive Special Universal Services support as provided for in subsection A of Section ~~6-139.109.1~~ 6-139.109.1 of this act ~~Act~~;

~~33.37. "Prediscount amount~~ Pre-discount Amount" means the total cost of Special Universal Services, selected pursuant to the procedures set out in subparagraph 5 of subsection B of Section ~~6-139.109.1~~ 6-139.109.1 of this act, before charges are reduced by federal or state funding support. The ~~Prediscount amount~~ Pre-discount Amount shall not include fees or taxes;

~~34.38. "Person"~~ means any individual, partnership, association, corporation, governmental entity, public or private organization of any character, or any other entity;

~~35.39. "Primary universal service~~ Universal Service" means an ~~access line~~ Access Line and dial tone ~~provided by an Eligible Local Exchange Telecommunications Service Provider~~ to the premises of residential or business customers which provides access to other lines for the transmission of two-way switched or dedicated communication in the local calling area without additional, usage-sensitive charges, including the following:

- a. a primary directory listing, where required by the Commission;
- b. dual-tone multifrequency signaling, or the functional equivalent;
- c. ~~access to~~ operator services;;
- d. ~~access to~~ directory assistance services;;
- e. Lifeline service;
- e.f. ~~access to~~ telecommunications relay services for the deaf or hard-of-hearing,
- f.g. ~~access to~~ nine-one-one service where provided by a local governmental authority or multijurisdictional authority, and;
- g.h. ~~access to~~ interexchange long distance services; and

i. other capabilities as determined by the Commission.

~~36.40.~~ "Public ~~Library~~ Library" means a library or library system that is freely open to all persons under identical conditions and which is supported in whole or in part by public funds. Public Library shall not include libraries operated as part of any university, college, school museum, the Oklahoma Historical Society or county law libraries;

~~37.41.~~ "Public ~~school~~ School" means all free schools supported by public taxation, and shall include grades prekindergarten through twelve and technology center schools that provide vocational and technical instruction for high school students who attend the technology center school on a tuition-free basis. Public school shall not include private schools, home schools or virtual schools;

42. "Public Switched Network" means the network that includes any common carrier switched network, whether by wire or radio, including local exchange carriers, interexchange carriers, and mobile service providers, that uses the North American Numbering Plan, or public IP addresses, in connection with the provision of switched services;

~~38.43.~~ "Regulated ~~telecommunications service~~ Telecommunications Service" means the offering of telecommunications for a fee directly to the public where the rates for such service are regulated subject to regulation by the Commission. Regulated telecommunications service ~~Telecommunications Service~~ does not include the provision of ~~nontelecommunications non-~~ telecommunications services, including, but not limited to, the printing, distribution, or sale of advertising in telephone directories, maintenance of inside wire, customer premises equipment, and billing and collection service, nor does it include the provision of wireless telephone service, enhanced service, and other unregulated services, including services not under the jurisdiction of the Commission, and services determined by the Commission to be competitive;

~~39.44.~~ "Special Universal Services" means the telecommunications services supported by the OUSF which are furnished to public schools, public libraries and eligible health care entities as provided for in Section 6 of this act;

~~40.45.~~ "Tariff" means all or any part of the body of rates, tolls, charges, classifications, and terms and conditions of service relating to ~~regulated~~ services offered, the conditions under which offered, and the charges ~~therefor~~ therefore, which have been filed with or submitted to the Commission and have become effective;

~~41.46.~~ "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received;

~~43.47.~~ "Telecommunications ~~carrier~~ Carrier" means a person that provides ~~telecommunications service~~ Telecommunications Service in this state;

~~43.48.~~ "Telecommunications ~~service~~ Service" means the offering of ~~telecommunications~~ Telecommunications for a fee;

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

45.50. "~~Universal service area~~ Service Area" has the same meaning as the term "service area" as defined in 47 U.S.C., Section 214(e)(5);

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

47.52. "~~Wire center~~ Center" means ~~a geographic area normally served by a central office~~ the location of a local switching facility containing one or more central offices, as defined in the Appendix to part 36 of Title 47 of the Code of Federal Regulations. The wire center boundaries define the area in which all customers served by a given wire center are located; and

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

### Section 139.103 - Title 17. Corporation Commission

A. Except as provided as follows, no company shall increase or decrease any regulated telecommunications service ~~Regulated Telecommunications Service~~ rate without approval of the Corporation Commission, consistent with Commission rules. ~~The Commission shall promulgate rules, to be effective no later than January 1, 1999, eliminating any regulatory disparities between the CLECs and ILECs with respect to the process of reviewing and approving tariffs.~~

B. Unless approved by the Legislature, no local exchange telecommunications service provider may charge a basic local exchange service rate that exceeds a basic local exchange service rate previously approved by the Commission and in effect on March 20, 1997, unless the local exchange telecommunications service provider is regulated under traditional rate base, rate of return regulation. Provided, companies serving less than fifteen percent (15%) of the total access lines in the state or which are subject to subsection B of Section 137 of this title may adjust local exchange rates in the manner provided for in subsection B of Section 137 of this title.

C. Nothing in this act shall be construed as modifying, affecting, or nullifying the responsibilities of the Commission or any telecommunications carrier as required pursuant to the National Labor Relations Act, the Communications Act of 1934 as amended by the Telecommunications Act of 1996, or the provisions relating to refund liability for overcharges pursuant to Section 121 et seq. of this title.

D. Except as otherwise provided for in this subsection, nothing in this act shall be construed as abrogating any rate case settlement agreement approved by the Corporation Commission prior to the effective date of this act. ~~With respect to local exchange telecommunications service providers serving fifteen percent (15%) or more of the access lines in the state:~~

- ~~1. The company shall not request and the Commission shall not approve an increase in basic local exchange service rates before February 5, 2001;~~
- ~~2. The Commission shall not initiate or conduct a traditional rate base, rate of return or earnings proceeding for any such company before February 5, 2001, unless such company proposes and the Commission approves an increase in a service rate that results in an increase in overall revenues of more than five percent (5%) on an annual basis for that company, excluding rate changes made pursuant to subsection E of Section 139.106 of this title and rate changes required or authorized by federal or state law, rules, orders or policies;~~
- ~~3. Notwithstanding any other provision of this act, no later than July 15, 1997, each such company shall submit to the Commission, and the Commission shall approve tariff changes reducing the intrastate access rates of that company by an amount necessary to generate a reduction in the annual intrastate access revenues of that company of Five Million Dollars (\$5,000,000.00). The company may seek recovery from the OUSF of only that portion of the annual five million dollar revenue reduction taken as directed in this paragraph that exceeds that amount necessary to achieve parity with the interstate access rates of that company in effect on May 30, 1997. Thereafter the Commission shall continue to adjust the intrastate access rates of such company as necessary to keep such rates in parity with the interstate access rates of that company, until the intrastate access revenues of that company have been reduced by a cumulative annual amount of Eleven Million Five Hundred Thousand Dollars (\$11,500,000.00), in addition to the five million dollar annual~~

~~reduction taken as directed in this paragraph. The company may seek recovery of all or part of the eleven million five hundred thousand dollar annual revenue reduction from the OUSF. If the company seeks recovery from the OUSF of such access revenue reductions described in this paragraph, the Commission shall, after notice and hearing, make a determination of the portion, if any, of the amounts requested that the company is eligible to receive from the OUSF;~~

~~4. No later than July 15, 1997, each such company shall submit to the Commission, and the Commission shall approve revised tariffs amending the terms and conditions provisions of the intrastate access tariffs of that company so that those tariffs are in parity with the terms and conditions provisions of the interstate access tariffs of that company. Thereafter, on an ongoing basis, such company shall maintain the terms and conditions provisions of the intrastate access tariffs of that company so that they are in parity with the terms and conditions provisions of the interstate access tariffs of that company; and~~

~~5. All reductions in access rates provided for in paragraph 3 of this subsection shall be flowed through to customers, consistent with the Commission's Order No. 282453, as issued by the Commission in Cause No. 29217.~~

E. Upon application of a provider of ~~regulated telecommunications services~~ Regulated Telecommunications Services, the Commission may implement an alternative form of regulation other than traditional rate base, rate of return regulation. ~~In determining whether to approve an alternative form of regulation or whether to continue regulation as established in paragraph 2 of subsection D of this section beyond February 5, 2001, the Commission shall consider the compliance of the company with the federal Telecommunications Act of 1996 in opening its network to local competition and implementing the interconnection and access provisions of such act.~~

F. Nothing in this section shall be construed as restricting any right of a consumer to complain to the Commission regarding quality of service or the authority of the Commission to enforce quality of service standards through the Commission's contempt powers or authority to revoke or rescind a certificate of convenience and necessity if the provider fails to provide adequate service. A certificate shall not be revoked or rescinded without notice, hearing, and a reasonable opportunity to correct any inadequacy.

G. The rules of the Corporation Commission governing quality of service shall apply equally to all local exchange telecommunications service providers.

H. In a manner consistent with the provisions of this act and rules promulgated by the Commission, the Commission shall retain jurisdiction over access services and rates.

## Section 139.105 - Title 17. Corporation Commission

A. Each ~~local exchange telecommunications service provider-carrier or wireless carrier~~ who receives funding from the Federal Lifeline Program shall be required, as part of being designated as an Eligible Telecommunications Carrier in Oklahoma, to participate in the Oklahoma Lifeline Fund and shall file tariffs with the Corporation Commission implementing a program to ~~provide a full waiver of the End User Common Line Charge on the monthly basic service rate of qualifying customers apply appropriate Lifeline support amounts to reduce monthly charges for qualifying residential retail services provided directly to qualifying low-income consumers.~~ Eligibility Qualification criteria for ~~this the Oklahoma Lifeline Fund~~ program shall comply with the provisions of 47 C.F.R., ~~Section 69.104(k)(1) § 54.409~~ and shall be limited to customers who demonstrate eligibility under the requirements at 47 C.F.R. § 54.410.:

- ~~1. Are eligible for or receive assistance or benefits, as certified by the Department of Human Services, under programs providing:~~
  - ~~a. Temporary Assistance to Needy Families;~~
  - ~~b. Food Stamps;~~
  - ~~c. Medical Assistance; or~~
  - ~~d. Supplemental Security Income;~~
- ~~2. Are eligible for or receive assistance or benefits, as certified by the State Department of Rehabilitation Services, under programs providing vocational rehabilitation, including, but not limited to, aid to the deaf or hard of hearing; or~~
- ~~3. Are eligible for or receive assistance or benefits, as certified by the Oklahoma Tax Commission, pursuant to the Sales Tax Relief Act.~~

B. There is hereby created within the Corporation Commission the "Oklahoma Lifeline Fund" ("OLF"). The Commission shall administer and maintain the Oklahoma Lifeline Fund-OLF to help ensure that low-income Oklahomans are provided financial assistance in maintaining ~~basic local exchange telecommunications service~~ qualifying residential voice telephony and / or Broadband Internet Services. Proceeds from the Oklahoma Lifeline Fund-OLF shall be distributed to all ~~local exchange telecommunications service providers-carriers or wireless carriers~~ who are required to file lifeline tariffs designated by the Commission as an Eligible Telecommunications Carrier ("ETC") in Oklahoma and be based on the prices set forth in the ETC's Lifeline tariff or informational tariff on file with the Commission.

C. The Oklahoma Lifeline Fund charges shall be levied, collected, and administered pursuant to Section 139.107 of this title. Telecommunications carriers may, at their option, recover from their retail customers who are not eligible for lifeline assistance, on an equitable basis, the amount of the ~~lifeline~~ Lifeline Fund charges paid by the carrier. The Oklahoma Lifeline Fund charges shall not be subject to state or local taxes or franchise fees.

D. An ~~eligible telecommunications carrier~~ Eligible Telecommunications Carrier may not receive reimbursements from the Oklahoma Lifeline Fund unless it demonstrates that its rates have been reduced by an amount equal to the amount of the Lifeline payments which would have otherwise been ~~previously included in the rate structure of the carrier.~~ A carrier shall be eligible for support from the Oklahoma Lifeline Fund for any amount ~~which is greater than the amount which has been previously included in the rate structure of the carrier~~ remaining after application of all federal

Lifeline support to its retail rates up to the total amount of the retail rate or the maximum amount of Oklahoma Lifeline support, whichever is less.

E. After May 16, 2013, an ~~eligible telecommunications carrier~~ Eligible Telecommunications Carrier shall not receive reimbursements from the Oklahoma Lifeline Fund until it provides documentation in the approved format to the Director of the Public Utility Division of the Corporation Commission confirming its compliance with federal and state guidelines and rules and establishes an ongoing process for providing documentation in the approved format to the Director of the Public Utility Division of the Corporation Commission demonstrating that the ~~eligible telecommunications carrier~~ Eligible Telecommunications Carrier:

1. Is collecting and maintaining reliable records regarding the verification of initial and continued eligibility for Lifeline services; and
2. Is in compliance with the Corporation Commission and Federal Communications Commission rules and regulations for Lifeline services.

F. In order to satisfy the provisions of paragraph 1 of subsection E of this section, an ~~eligible telecommunications carrier~~ Eligible Telecommunications Carrier shall obtain in writing the following information from the customer seeking Lifeline service:

1. The customer's name;
2. The last four digits of the customer's social security number or tribal identification number if the customer does not have a social security number;
3. The customer's date of birth; ~~and~~
4. The customer's billing primary residential address and billing address, if different than the primary residential address; and-
5. Documentation of eligibility to be retained by eligible telecommunications carriers for as long as the subscriber receives Lifeline support from the carrier but for no less than the full three preceding calendar years.

G. Additionally, an ~~eligible telecommunications carrier~~ Eligible Telecommunications Carrier seeking reimbursement from the Oklahoma Universal Service Fund for the provisioning of Lifeline service must obtain a certified statement in writing from the customer at the time Lifeline services are initially requested and on an annual basis thereafter that:

1. The customer seeking Lifeline services participates in one of the programs listed in subsection A of this section;
2. The telephone service location to which the certification applies is the customer's primary residential service address rather than a second home or business;
3. If in the future the customer no longer participates in or qualifies for at least one of the programs listed in subsection A of this section, the customer will notify the eligible telecommunications carrier within thirty (30) days;
4. The telephone service which is being requested is listed in the customer's legal name;
5. The customer is eighteen (18) years of age or older and is not claimed as a dependent on another person's tax return; and
6. The customer's ~~residence~~ household, as that term is defined at 47 C.F.R. § 54.400(h), will only receive one Lifeline service benefit and, to the best of the customer's knowledge and verified by the Eligible Telecommunications Carrier through completion of a federal

one-per-household worksheet as required by 47 C.F.R § 54.410(g), is not already receiving Lifeline service.

H. If the customer seeking Lifeline service does not have a primary residential address, the eligible telecommunications carrier seeking reimbursement from the Oklahoma Universal Service Fund for the provision of Lifeline service must obtain a certified statement in writing from the customer that the address provided is temporary and that the customer will recertify his or her temporary address every ninety (90) days.

I. ~~In~~ Until the National Verifier is responsible for the initial determination of a subscriber's eligibility as well as the annual re-certification of a subscriber's eligibility, order to obtain reimbursement from the Oklahoma Universal Service Fund, the ~~eligible telecommunications carrier~~ Eligible Telecommunications Carrier must also obtain a certified statement in writing from the customer, at the time Lifeline services are initially requested and on an annual basis thereafter, that the customer has read, understands and acknowledges the following:

1. The ~~eligible telecommunications carrier~~ Eligible Telecommunications Carrier or its duly appointed representative has authorization to access any records required to verify the statements made by the customer in order to confirm continued participation in any of the programs listed in subsection A of this section, and authorizes representatives of those programs to discuss with and/or provide copies to the ~~eligible telecommunications carrier~~ Eligible Telecommunications Carrier or its duly appointed representative to verify the customer's eligibility for and participation in any of the programs listed in subsection A of this section; and
2. The ~~eligible telecommunications carrier~~ Eligible Telecommunications Carrier is authorized to transmit to any governmental entity or its designee handling a Lifeline accountability database the customer's full name, full residential address, date of birth, and the last four digits of the customer's social security number or tribal identification number if the customer does not have a social security number, the telephone number associated with the Lifeline service provided, the date on which Lifeline service will or has begun, the date on which the Lifeline service ends, the amount of support sought by the company and the means through which one qualifies for program benefits. The customer must also acknowledge that transmission of this information is required to ensure the proper administration of the Lifeline program and that if the customer refuses to have this information transmitted to the administrator, he or she will be denied Lifeline service; and
3. The ~~eligible telecommunications carrier~~ Eligible Telecommunications Carrier seeking reimbursement from the Oklahoma Universal Service Fund for the provisioning of Lifeline services shall also note on the certified written statement obtained from the customer the name of the employee or representative who verified the customer's eligibility for Lifeline service and the type of documentation reviewed.

~~I.J.~~ The Corporation Commission is authorized to promulgate rules necessary to implement the provisions of this section, including the establishment of fines of up to Ten Thousand Dollars (\$10,000.00) per day per violation. A telecommunications carrier may be fined by the Corporation Commission for marketing practices determined by an administrative law judge to be in violation of the Corporation Commission's rules and noncompliance with other provisions of the Oklahoma

Lifeline Fund program rules, as the Corporation Commission may deem proper after notice and opportunity for hearing.

J-K. The amount reimbursed from the Oklahoma Lifeline Fund for the provision of Lifeline service shall not exceed ~~two cents (\$0.02) per month per Lifeline subscriber~~ ten dollars (\$10.00) per month per Lifeline subscriber located in Non-Tribal areas and Federally designated Tribal areas that do not qualify for Federal enhanced support and one dollar (\$1.00) per month per Lifeline subscriber located in Federally designated Tribal areas that qualify for Federal enhanced support as provided at 47 C.F.R. § 54.403(a)(3).

## Section 139.106 - Oklahoma Universal Service Fund (OUSF)

A. There is hereby created within the Corporation Commission the "Oklahoma Universal Service Fund" (OUSF). Not later than January 31, ~~1998~~ 2021, the Corporation Commission shall promulgate rules ~~implementing~~ updating the OUSF so that, consistent with the provisions of this ~~section~~ Act, funds can be made available to ~~eligible local exchange telecommunications service providers~~ Eligible Local Exchange Telecommunications Service Providers with regard to this Section, Eligible Telecommunications Carriers with regard to Section 139.105 of this Act and, consistent Eligible Providers with regard to Section 6 of this act, funds can be made available to eligible providers 139.109.1.

B. The OUSF shall be funded and administered to promote and ensure the availability of ~~primary universal services~~ Primary Universal Services, at rates that are reasonable and affordable and Special Universal Services, and to provide for reasonably comparable services at affordable rates in rural areas as in urban areas. The OUSF shall provide funding to ~~local exchange telecommunications service providers~~ Eligible Local Exchange Telecommunications Service Providers that meet the eligibility criteria established in this ~~section~~ Section, and to ~~eligible providers~~ Eligible Providers that meet the eligibility criteria established in Section 6 ~~139.109.1~~ 139.109.1 of this ~~act~~ Act, and to Eligible Telecommunications Carriers that meet the eligibility criteria established in Section 139.105 for the provision of Special Universal Services. Further, the OUSF shall provide specific, predictable and sufficient funds to Eligible Local Exchange Telecommunications Service Providers, that have Carriers of Last Resort obligations, necessary to deploy, maintain and manage networks capable of providing Primary Universal Services.

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

~~C. 1. The procedure for eligible local exchange telecommunications service providers and eligible providers~~ procedures to seek and obtain OUSF and Oklahoma Lifeline Fund (OLF) funding shall be as set forth in this subsection, unless otherwise specifically stated.

~~2. a. Within~~ For requests for OLF funding filed pursuant to Section 139.105, within ninety (90) days after receipt of a request for funds from an eligible local exchange telecommunications service provider or an eligible provider, the Administrator as defined pursuant to Section 139.102 of this title shall independently review and determine the accuracy of the request and advise the eligible local exchange telecommunications service provider or eligible provider Eligible Telecommunications Carrier requesting the funds of the determination of eligibility made by the Administrator. The determination shall detail the amount of funding recoverable from the OUSF and OLF at the time of the initial application. The determination shall include a requirement to provide monthly updates to the number of eligible Lifeline subscribers. Failure by the Administrator to issue a determination within the ~~ninety-day~~ ninety (90) day period means the request for OUSF or OLF reimbursement is deemed approved on a permanent basis, and funding shall be paid within forty-five (45) days without an order of the Commission. If a request for reconsideration of the determination of the Administrator is not filed as provided for in paragraph ~~5-3~~ 5-3 of this subsection Subsection, the determination of the Administrator shall be deemed final

approved on the sixteenth (16<sup>th</sup>) day following the date of the determination, and The OUSF funding as provided in the determination of the Administrator shall be paid to the eligible local exchange telecommunications service provider or eligible provider pay the amount set forth in the determination to the Eligible Telecommunications Carrier within forty-five (45) days without an order of the Commission.

b. For requests for Special Universal Services funding filed pursuant to Section 139.109.1, within ninety (90) days after receipt of a request, the Administrator shall independently review and determine the accuracy of the request and advise the Eligible Provider requesting the funds of the determination of eligibility made by the Administrator. The determination shall detail the amount of funding recoverable from the OUSF. Failure by the Administrator to issue a determination within the ninety (90) day means the request for OUSF reimbursement is deemed approved on a permanent basis, and funding shall be paid within forty-five (45) days without an order of the Commission. If a request for reconsideration of the determination of the Administrator is not filed as provided for in paragraph 3 of this Subsection, the determination of the Administrator shall be deemed approved on the sixteenth (16<sup>th</sup>) day following the date of the determination and the Administrator shall pay the amount set forth in the determination to the Eligible Provider within forty-five (45) days without an order of the Commission.

c. For requests for Primary Universal Services funding filed pursuant to Section 139.106(G) or Section 139.106(J), within one-hundred twenty (120) days after receipt of a request the Administrator shall independently review and determine the accuracy of the request and advise the Eligible Local Exchange Telecommunications Service Provider requesting the funds of the determination of eligibility made by the Administrator. The determination shall detail the amount of funding recoverable from the OUSF. Failure by the Administrator to issue a determination within the one-hundred twenty (120) day period means the request for reimbursement is deemed approved on a permanent basis, and funding shall be paid within forty-five (45) days without an order of the Commission. If a request for reconsideration of the determination issued by the Administrator is not filed as provided for in paragraph 3 of this Subsection, the determination shall be deemed approved on the sixteenth (16<sup>th</sup>) day following the date of the determination and the Administrator shall pay the amount set forth in the determination to the Eligible Local Exchange Telecommunications Service Provider within forty-five (45) days without an order of the Commission.

~~3-~~d. For requests seeking OUSF funds pursuant to Section 6 of this act 139.109.1, provided that an OUSF approval-pre-approval funding letter has been issued as otherwise provided for in the Oklahoma Telecommunications Act of 1997, the eligible provider shall, within sixty (60) days of the start of service, submit to the Administrator a request for reimbursement from the OUSF. The Administrator shall have sixty (60) days to issue a determination to the Oklahoma Universal Service Fund Beneficiary and eligible provider detailing the amount of funding recoverable from the OUSF. Failure by the Administrator to issue a determination within the sixty-day period means the request for OUSF reimbursement is approved as submitted. The determination shall detail the amount of funding recoverable from the OUSF. Failure by the Administrator to issue a determination shall mean the request for OUSF reimbursement is deemed approved on a permanent basis, and funding shall be paid within

forty-five (45) days without an order of the Commission. If a request for reconsideration of the determination of the Administrator is not filed as provided for in paragraph 5-3 of this subsection, the determination shall be deemed final on the sixteenth day following the date of the determination. The OUSF funding as provided in the determination of the Administrator shall be paid to the eligible provider within forty-five (45) days without an order of the Commission.

~~4-2.~~ A request for reimbursement as provided for in ~~paragraph 3-(C)(1)(a)-(d)~~ of this subsection shall be in the form as determined by the Administrator. The form shall be posted by the Administrator no later than one hundred twenty (120) days prior to the start of the funding year to become effective July 1 for reimbursement requests submitted for eligible services provided during the funding year. Any party may file an objection to a posted form with the Commission within fifteen (15) days of the posting. The Commission shall have thirty (30) days to issue a final order on the objection to the form. If the Commission does not issue a final order on the objection within thirty (30) days, the objection shall be deemed approved.

~~5-3.~~ Any affected party, meaning the ~~eligible local exchange telecommunications service provider~~ Eligible Local Exchange Telecommunications Service Provider, the ~~eligible provider~~ Eligible Provider, the Eligible Telecommunications Carrier, any service provider that pays into the OUSF or OLF, the Oklahoma Universal Service Fund Beneficiary or the Attorney General, shall have fifteen (15) days to file a request for reconsideration by the Commission of the determination made by the Administrator. ~~If the Commission does not issue a final order within thirty (30) days from the date the request for reconsideration is filed, the request shall be deemed approved on an interim basis subject to refund with interest. The interest rate on a refund shall be at a rate of not more than the interest rate established by the Commission on customer deposits and shall accrue for a period not to exceed ninety (90) days from the date the funds were received by the requesting eligible local exchange telecommunications service provider or eligible provider. If the Commission does not issue a final order within one hundred twenty (120) days of the filing of the request for reconsideration, then the request for OUSF or OLF funding as filed shall be deemed approved on a permanent basis without order of the Commission, and the OUSF and OLF funding shall be paid without an order of the Commission within forty five (45) days.~~

a. In the case of requests for reconsideration of the Administrator's determination of funding to be received pursuant to Section 139.105, if the Commission does not issue a Final Order within thirty (30) days from the date the request for reconsideration is filed, the request shall be deemed approved on an interim basis subject to refund with interest. The interest rate on a refund shall be at a rate of not more than the interest rate established by the Commission on customer deposits and shall accrue for a period not to exceed ninety (90) days from the date the funds were received by the Eligible Telecommunications Carrier. If the Commission does not issue a Final Order within one hundred twenty (120) days of the filing of the request for reconsideration, then the request for OLF funding as filed shall be deemed approved on a permanent basis without order of the Commission, and the OLF funding shall be paid without an order of the Commission within forty-five (45) days.

b. In the case of requests for reconsideration of the Administrator's determination of funding to be received pursuant to Section 139.109.1, if the Commission does not issue a Final Order within thirty (30) days of the filing of the request for reconsideration, the request shall be deemed approved on an interim basis subject to refund with interest. The interest rate on a refund shall be at a rate of not more than the interest rate established by the Commission on customer deposits and shall accrue for a period not to exceed ninety (90) days from the date the funds were received by the Eligible Provider. If the Commission does not issue a Final Order within one hundred twenty (120) days of the filing of the request for reconsideration, then the request for OUSF funding as filed shall be deemed approved on a permanent basis without order of the Commission, and the OUSF funding shall be paid without an order of the Commission within forty-five (45) days.

c. In the case of requests for reconsideration of the Administrator's determination of funding to be received pursuant to Section 139.106(G) or 139.106(J), if the Commission does not issue a Final Order within thirty (30) days of the filing of the request for reconsideration, the request shall be deemed approved on an interim basis subject to refund with interest. The interest rate on a refund shall be at a rate of not more than the interest rate established by the Commission on customer deposits and shall accrue for a period not to exceed ninety (90) days from the date the funds were received by the Eligible Provider. If the Commission does not issue a Final Order within one hundred twenty (120) days of the filing of the request for reconsideration, then the request for OUSF funding as filed shall be deemed approved on a permanent basis without order of the Commission, and the OUSF funding shall be paid without an order of the Commission within forty-five (45) days.

~~6-8.~~ The term "~~final order~~ Final Order" as used in this subsection ~~Act~~ shall mean an order which resolves all issues associated with the request for OUSF or OLF funding.

~~E-D.~~ Contributing providers ~~Providers~~ may, at their option, recover from their retail customers the OUSF charges paid by the ~~contributing provider~~ Contributing Provider. The OUSF charges shall not be subject to state or local taxes or franchise fees.

~~F-E.~~ The Commission shall not, prior to implementation and the availability of funds from the OUSF, require ~~local exchange telecommunications service providers~~ Local Exchange Telecommunications Service Providers to reduce rates for intrastate access services.

~~G-F. 1.~~ Any ~~eligible local exchange telecommunications service provider~~ Eligible Local Exchange Telecommunications Service Provider may request funding from the OUSF as necessary to maintain rates for ~~primary universal services~~ Primary Universal Services that are reasonable and affordable. Funding for investment made subsequent to enactment of this Section may be limited to Eligible Local Exchange Telecommunications Service Providers with COLR obligations and to areas lacking unsubsidized Primary Universal Service. A qualified applicant seeking funding in support of the provision of Primary Universal Services may challenge the Administrator's determination that unsubsidized Primary Universal Service is available from a qualified provider in a particular geographic

area by providing detailed proof of the lack of unsubsidized Primary Universal Services in a geographic area. Further, for those areas in which the Administrator has determined that unsubsidized Primary Universal Service is available, the Incumbent Local Exchange Telecommunications Service Provider, by filing notice and tariff with the Commission, may relinquish its COLR obligations. OUSF funding shall be provided to eligible local exchange telecommunications service providers Eligible Local Exchange Telecommunications Service Providers for any of the following:

~~1. a.~~ To reimburse eligible local exchange telecommunications service providers for the reasonable investments and expenses not recovered from intrastate regulated revenues, except as provided in Section 139.106(G)(1)(d), the federal universal service fund or any other state or federal government fund incurred in providing universal services;

~~2. b.~~ To reimburse infrastructure Infrastructure expenditures or costs incurred in response to facility or service requirements established by a legislative, regulatory, or judicial authority or other governmental entity mandate;

~~3. c.~~ For reimbursement of the Lifeline Service Program credits given in conjunction with the provision of Lifeline Service as set forth in Section 139.105 of this title;

~~4. d.~~ For approved reimbursement of the credits given in conjunction with the provision of eligible local exchange telecommunications service providers for providing the Special Universal Services as set forth in Section 6-139.109.1 of this act title;

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

~~e.~~ For reimbursement of decreases in revenues resulting from an Eligible Incumbent Local Exchange Telecommunications Service Provider serving less than seventy-five thousand access lines being subject to a Federal Communications Commission order, rule or policy impacting intrastate costs or revenues, except as provided in Section 139.106(G)(1)(d), which, after a full review of the company's books and records, results in the Administrator determining that an under-earning status was created;

~~f.~~ For reimbursement of reductions in revenues or increases in costs resulting from an Eligible Incumbent Local Exchange Telecommunications Service Provider serving less than seventy-five thousand access lines being subject to changes required by existing or future federal or state regulatory rules, orders, or policies or by federal or state law impacting intrastate costs or revenues, except as provided in Section 139.106(G)(1)(d), which, after a full review of the company's books and records, results in the Administrator determining that an under-earning status was created; and

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

2. If, as a result of changes made as required by existing or future federal or state regulatory rules, orders, or policies or by federal or state law, an Eligible Local Exchange Telecommunications Service Provider experiences a reduction in costs, upon approval by the Administrator or the Commission, upon reconsideration, the provider shall reduce the level of OUSF funding it receives to a level sufficient to account for the reduction in costs to bring the company back to the approved earnings level based on a full review of the company's books and records.

3. The receipt of funding from the OUSF, except for reimbursement for OLF credits described in paragraph (F)(1)(c) of this subsection, and reimbursement for infrastructure expenditures described in (F)(1)(b) of this subsection, for the changes referred to in this subsection shall be conditioned upon an earnings investigation by the Administrator or, upon reconsideration, the Commission as described in subsection (G) of this Section. After conducting the earnings investigation, the Administrator or the Commission, upon reconsideration, shall approve the request for payment or adjustment of payment from the OUSF based on a determination that such payment will result in local service rates which are reasonable, and affordable, the provision of reasonably comparable services at affordable rates in rural areas as in urban areas and will be in the public interest.

4. All OUSF funding being received by an Eligible Local Exchange Telecommunications Service Provider at the time of the enactment of this subsection, with the exception of funds being received for OLF credits described in paragraph (F)(1)(c) of this subsection, reimbursement for infrastructure expenditures described in (F)(1)(b) of this subsection, reimbursement for Special Universal Services described in section 139.109.1 of this title, and Oklahoma High Cost Fund reimbursements that is not based on a prior earnings investigation, will cease thirty (30) days after enactment of this subsection. Any Eligible Local Exchange Telecommunications Service Provider impacted by this cessation of funding, may file an application for an earnings investigation under this subsection. Such application will be based on the most recent cost study available at the time the application is filed. Impacts may be imputed, subject to true up and refund, based on the most recent cost study adjusted for current account balances. True up would occur in the future period once the cost study is finalized and available for the fiscal year in which the reduction occurred. If an Eligible Local Exchange Telecommunications Service Provider files such an application within thirty (30) days of the enactment of this subsection, such previous funding not based on a prior earnings investigation will cease one hundred and eighty (180) days after enactment of this subsection or upon the completion of an earnings investigation, whichever is earlier. Reimbursements related to the Oklahoma High Cost Fund, as ordered in Oklahoma Corporation Commission Order No. 673325, will cease March 1, 2022. Any future lost revenues associated with the Oklahoma High Cost Fund may be considered through an earnings investigation pursuant to Section G below.

~~H. G. 1. In identifying and measuring the costs of providing primary universal services, exclusively Exclusively for the purpose of an earnings investigation required in determining OUSF funding levels under this section-Section, the eligible local exchange telecommunications service provider Eligible Local Exchange Telecommunications~~

Service Provider serving less than seventy-five thousand access lines shall, identify and measure the costs of providing Primary Universal Services and the revenues available to fund said services by, at its option, using one of the following methods:

~~1.-a.~~ Calculate such costs by including all embedded investments and expenses incurred by the ~~eligible local exchange telecommunications service provider~~ Eligible Local Exchange Telecommunications Service Provider in the provision of ~~primary universal service~~ Primary Universal Service, and may identify high-cost areas within the local exchange area it serves and perform a fully distributed allocation of embedded costs and identification of associated primary universal service revenue. Such calculation may be made using fully distributed Federal Communications Commission parts 32, 36 and 64 costs, if such parts are applicable. The high-cost area shall be no smaller than a single ~~exchange~~ Exchange, ~~wire center~~ Wire Center, or census block group, chosen at the option of the ~~eligible local exchange telecommunications service provider~~ Eligible Local Exchange Telecommunications Service Provider;

~~2.-b.~~ Adopt the cost studies approved by the Commission for a ~~local exchange telecommunications service provider~~ Local Exchange Telecommunications Service Provider that serves seventy-five thousand or more access lines; ~~or~~

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

d. Eligible Local Exchange Telecommunications Service Providers with Carrier of Last Resort obligations, may also elect to identify all of its embedded investments and expenses incurred in the provision of Regulated Telecommunications Services, including Primary Universal Service, in its Oklahoma local exchange area, regardless of the jurisdiction authorizing the services provided; and to identify all of its regulated revenues received from the provision of services, regardless of the jurisdiction authorizing the funding, including total revenue from retail services, wholesale services, intercarrier compensation, grants, all federal universal service support and all Oklahoma support, including but not limited to, Oklahoma High Cost Fund and OUSF support. Selection of this option will result in funding from the OUSF based on the regulated total company revenue deficiency, regardless of jurisdictional allocations of costs or revenues.

2. Regardless of the option selected, in section (G)(1) above, by the Eligible Local Exchange Telecommunications Service Provider, when conducting the earnings investigation, the OUSF Administrator or the Commission, upon reconsideration, may:

a. Determine the reasonableness of any investment or expense including, but not limited to:

(i) affiliate transactions involving the provision of regulated services to an affiliate of the Eligible Local Exchange Telecommunications Service Provider and all of the costs and revenues of the Eligible Local Exchange Telecommunications Service Provider associated with the provision of regulated services to the affiliate,

- regardless of their jurisdictional nature;
- (ii) employee compensation, employee expenses and the allocation methodology for any shared employees;
- (iii) capital investment in network;
- (iv) capital investment in operations;
- (v) operational expenses;
- (vi) legal / regulatory expenses;
- (vii) marketing and community outreach expenses;
- (viii) depreciation schedules and methodology are consistent with Federal Communications Commission requirements and are being applied appropriately;
- and
- (ix) cost of capital.

b. Impute additional revenues to the extent:

- (i) retail rates for local service are below the last rate floor benchmark established by the Federal Communications Commission or as the OUSF Administrator recommends and the Commission approves, after notice and hearing, a standard Oklahoma rate floor; and/or
- (ii) the OUSF Administrator determines the provider failed to secure funding from reasonably available state or federal funding sources established for the provision of universal services.

I-H. In identifying and measuring the cost of providing ~~primary universal services~~ Primary Universal Services, and exclusively for the purpose of determining OUSF funding levels pursuant to this ~~section~~ Section, other than pursuant to Subsection (G)(1)(d) of this Section, each ILEC which serves seventy-five thousand or more access lines and each CLEC shall identify high-cost areas within the local exchange and perform a cost study using a Commission-approved methodology from those identified in subsection ~~H-G~~ H-G of this ~~section~~ Section. The high-cost area shall be no smaller than a single ~~exchange~~ Exchange, ~~wire center~~ Wire Center or census block group chosen at the option of the eligible ILEC or CLEC. If the ~~Administrator or the Commission, upon reconsideration,~~ fails to approve the selected methodology within one hundred twenty (120) days of the filing of the selection, the selected methodology shall be deemed approved.

J-I. The Commission may by rule expand ~~primary universal services~~ Primary Universal Services to be supported by the OUSF, after notice and hearing. The Administrator, upon approval of the Commission, shall determine the level of additional OUSF funding to be made available to an ~~eligible local exchange telecommunications service provider~~ Eligible Local Exchange Telecommunications Service Provider which is required to recover the cost of any expansion of universal services.

J. 1. Each request for OUSF funding by an Eligible Local Exchange Telecommunications Service Provider serving less than seventy-five thousand access lines made pursuant to subsection (F)(1)(b) of this Section and involving a Facilities addition, move, or change involving physical network elements specifically required for the delivery of Primary Universal Services, shall be approved by the OUSF Administrator or, the Commission, upon reconsideration, upon a showing that:

- a. The expenditures for which reimbursement is requested were the result of a governmental entity mandate;
  - b. To the extent outside labor resources are utilized, such resources were acquired at market prices or, if supplied in-house or by an affiliate, at the lower of market prices or actual costs;
  - c. The expenditures for which reimbursement is requested are directly related to the mandated facility addition, move, or change;
  - d. The costs of materials utilized in accomplishing the mandated facility addition, move, or change are reasonably comparable to the costs the Eligible Local Exchange Telecommunications Service Provider incurs in its own operations for the same or similar materials;
  - e. The requested funding from the OUSF is limited to reimbursement for the replacement cost of the Facilities, exclusive of any unreasonable betterment; and
  - f. The requested funding from the OUSF does not include costs recovered from other sources or changes resulting from changes in federal or state law or regulation that reduces revenues or expenses.
2. The Administrator or the Commission, upon reconsideration, shall approve the request for reimbursement from the OUSF based on a determination that the factors in (J)(1)(a)-(f) have been satisfied. Such determination will be subject to subsections (C)(4) and (C)(7)(c) of this Section.
3. If the OUSF Administrator or the Commission, upon reconsideration, identifies any deficiencies in the factors in (J)(1)(a)-(f), such deficiencies shall be identified and reflected in the OUSF Administrator's determination or, upon reconsideration, the Commission's Final Order, including, but not limited to, adjusting the reimbursement amount requested to reflect said deficiencies.

[Section (K) - REPEALED]

- ~~K. 1. Each request for OUSF funding by an eligible ILEC serving less than seventy five thousand access lines shall be premised upon the occurrence of one or more of the following:~~
- ~~a. in the event of a Federal Communications Commission order, rule or policy, the effect of which is to decrease the federal universal service fund revenues of an eligible local exchange telecommunications service provider, the eligible local exchange telecommunications service provider shall recover the decreases in revenues from the OUSF,~~
  - ~~b. if, as a result of changes required by existing or future federal or state regulatory rules, orders, or policies or by federal or state law, an eligible local exchange telecommunications service provider experiences a reduction in revenues or an increase in costs, it shall recover the revenue reductions or cost increases from the OUSF, the recovered amounts being limited to the net reduction in revenues or cost increases, or~~
  - ~~e. if, as a result of changes made as required by existing or future federal or state regulatory rules, orders, or policies or by federal or state law, an eligible local exchange telecommunications service provider experiences a reduction in costs, upon approval by the Commission, the provider shall reduce the level of OUSF funding it receives to a level sufficient to account for the reduction in costs.~~
2. ~~The receipt of OUSF funds for any of the changes referred to in this subsection shall not be conditioned upon any rate case or earnings investigation by the Commission. The~~

~~Commission shall, pursuant to subsection D of this section, approve the request for payment or adjustment of payment from the OUSF based on a comparison of the total annual revenues received from the sources affected by the changes described in paragraph 1 of this subsection by the requesting eligible local exchange telecommunications service provider during the most recent twelve (12) months preceding the request, and the reasonable calculation of total annual revenues or cost increases which will be experienced after the changes are implemented by the requesting eligible local exchange telecommunications service provider.~~

[Section (L) - REPEALED]

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

~~M. The incumbent local exchange telecommunications service provider Incumbent Local Exchange Telecommunications Service Provider, its successors and assigns, which owned, maintained and provided facilities for universal service within a local exchange area on January 1, 1996, shall be the local exchange telecommunications service provider Local Exchange Telecommunications Service Provider eligible for OUSF funding within the local exchange area, except as otherwise provided for in this act Act.~~

~~N. 1. Where the incumbent local exchange telecommunications service provider Incumbent Local Exchange Telecommunications Service Provider receives or is eligible to receive monies from the OUSF, except as otherwise provided in this section Section, the Commission, after notice and hearing, may designate other local exchange telecommunications service providers Local Exchange Telecommunications Service Provider to be eligible for the funding, provided:~~

~~a. the other local exchange telecommunications service provider Local Exchange Telecommunications Service Provider is certificated by the Commission to provide and offers the primary universal services Primary Universal Services supported by the OUSF to all customers in the universal service area designated by the Commission, using its own facilities Facilities, or a combination of its own facilities Facilities and the resale of the services or facilities Facilities of another and has been designated as an Eligible Telecommunications Carrier. Universal service support under this subsection shall not begin until the other local exchange telecommunications service provider Local Exchange Telecommunications Service Provider has facilities Facilities in place,~~

~~b. the other local exchange telecommunications service provider Local Exchange Telecommunications Service Provider may only receive funding for the portion of the facilities Facilities that it owns, maintains, and uses for regulated services Regulated Services,~~

~~c. the other local exchange telecommunications service provider Local Exchange~~

Telecommunications Service Provider shall not receive OUSF funding at a level higher than the level of funding the ~~incumbent local exchange telecommunications service provider~~ Incumbent Local Exchange Telecommunications Service Provider is eligible to receive for the same area if the ~~incumbent local exchange telecommunications service provider~~ Incumbent Local Exchange Telecommunications Service Provider is also providing service in the same area; provided, the cost of any cost studies required to be performed shall be borne by the party requesting such studies, unless the party performing the study utilizes the study for its own benefit,

d. the ~~other local exchange telecommunications service provider~~ Local Exchange Telecommunications Service Provider advertises the availability and charges for services it provides through a medium of general distribution, and

e. it is determined by the Commission that the designation is in the public interest and the ~~other local exchange telecommunications service provider~~ Local Exchange Telecommunications Service Provider is in compliance with all Commission rules for which a waiver has not been granted. The public interest determination will include consideration of whether the other Local Exchange Telecommunications Service Provider has a COLR obligation in the area for which funding is requested. Further, the public interest may require funding be limited to areas lacking Primary Universal Service. Such other Local Exchange Telecommunications Service Provider may challenge the Administrator's determination that Primary Universal Service is available from a qualified provider in a particular geographic area by providing detailed proof of the lack of Primary Universal Services in a geographic area.

2. Notwithstanding the criteria set forth in this section for designation as an ~~eligible local exchange telecommunications service provider~~ Eligible Local Exchange Telecommunications Service Provider eligible to receive funding from the OUSF, a commercial mobile radio service provider that has been designated as an Eligible Telecommunications Carrier may, without being designated as an Eligible Local Exchange Telecommunications Service Provider and after notice and hearing, seek reimbursement from the OUSF for the provision of services supported by the OUSF consistent with Section 139.106 of this Title, and any telecommunications carrier Eligible Telecommunications Carrier may seek reimbursement from the OUSF for the provision of Lifeline Service consistent with Section 139.105 of this title-Title and any Eligible Provider or commercial mobile radio service provider may seek reimbursement from the OUSF for the provision of Special Universal Services consistent with Section 6-139.109.1 of this act-Title.

O. In ~~exchanges~~ Exchanges or ~~wire centers~~ Wire Centers where the Commission has ~~designated~~ granted more than one ~~local exchange telecommunications service provider~~ Local Exchange Telecommunications Service Provider as eligible ~~for to receive~~ to receive OUSF funding pursuant to § 139.106, the Commission shall permit one or more of the ~~local exchange telecommunications service providers~~ Local Exchange Telecommunications Service Providers in the area to relinquish ~~the designation~~ its eligibility, as a ~~local exchange telecommunications service provider~~ Local Exchange Telecommunications Service Provider, eligible for to receive OUSF funding pursuant to § 139.106 and its ETC designation in a

manner consistent with Section 214(e)(4) of the federal Telecommunications Act of 1996, upon a finding that at least one ~~eligible local exchange telecommunications service provider~~ Eligible Local Exchange Telecommunications Service Provider is eligible to receive funding from the OUSF pursuant to § 139.106, has been designated as an ETC, and shall continue to assume the ~~carrier of last resort~~ Carrier of Last Resort obligations throughout the area.

P. For any area served by an ~~incumbent local exchange telecommunications service provider~~ Incumbent Local Exchange Telecommunications Service Provider which serves less than seventy-five thousand access lines within the state, only the ~~incumbent local exchange telecommunications service provider~~ Incumbent Local Exchange Telecommunications Service Provider shall be eligible for OUSF funding except:

1. Other ~~eligible telecommunications carriers~~ Eligible Providers or Eligible Telecommunications Carriers which provide Special Universal Services or Lifeline Service shall be eligible to request and receive OUSF funds for those services in the same manner as the ~~incumbent local exchange telecommunications service provider~~ Incumbent Local Exchange Telecommunications Service Provider in the same area pursuant to the Oklahoma Telecommunications Act of 1997; or

2. The ~~incumbent local exchange telecommunications service provider~~ Incumbent Local Exchange Telecommunications Service Provider has elected to waive the right to be the only ~~eligible local exchange telecommunications service provider~~ Eligible Local Exchange Telecommunications Service Provider eligible to receive monies from the OUSF for the provision of Primary Universal Service within the ~~its~~ local exchange area by filing notice with the Commission; or

3. When an Incumbent Local Exchange Telecommunications Service Provider serving less than seventy-five thousand access lines within the state elects to waive the right pursuant to paragraph 2 of subsection P of this section, the Commission, after notice and hearing, may make a determination that it is in the public interest that another ~~local exchange telecommunications service provider~~ Local Exchange Telecommunications Service Provider should also be deemed a ~~carrier of last resort~~ and be eligible to receive OUSF funding in addition to the ~~incumbent local exchange telecommunications service provider~~ eligible to receive monies from the OUSF for the provision of Primary Universal Services. Such other Local Exchange Telecommunications Service Provider shall hold designation as an Eligible Telecommunications Carrier and have Carrier of Last Resort obligations within the local exchange areas for which it will be eligible to receive monies from the OUSF. It shall not be in the public interest to designate another ~~local exchange telecommunications service provider~~ Local Exchange Telecommunications Service Provider, holding Eligible Telecommunications Carriers designation, as being a ~~carrier of last resort~~ Carrier of Last Resort and eligible to receive OUSF funding if such designation would cause a significant adverse economic impact on users of ~~telecommunications services~~ Telecommunications Services generally or if the other carrier refuses to seek and accept ~~carrier of last resort~~ Carrier of Last Resort obligations throughout the universal service area as designated by the Commission. The other ~~local exchange telecommunications service provider~~ Local Exchange Telecommunications Service Provider, if determined to be eligible, shall not be eligible to

receive OUSF funding at a level higher than the level of funding the ~~incumbent local exchange telecommunications service provider is~~ Incumbent Local Exchange Telecommunications Service Provider was eligible to receive for the same area, ~~if the incumbent local exchange telecommunications service provider is also providing service in the same area and the~~ The other local exchange telecommunications service provider meets Local Exchange Telecommunications Service Provider must meet the requirements of subparagraphs a, b, d and e of paragraph 1 of subsection N of this section.

### **Section 139.107 - Title 17. Corporation Commission**

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

B. The Corporation Commission shall establish the OLF assessment and the OUSF assessment at a level sufficient to recover costs of administration and annual independent audit and payments for OUSF and OLF requests for funding as provided for in the Oklahoma Telecommunications Act of 1997. The administration of the OLF and OUSF shall be provided by the Public Utility Division of the Commission. The administrative function shall be headed by the Administrator as defined in Section 139.102 of this title. The Administrator shall be an independent evaluator. The Administrator may enter into contracts to assist with the administration of the OLF and OUSF. The annual independent audit shall not be performed by the Administrator or Public Utility Division.

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

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

**Section 139.110 - Title 17. Corporation Commission**

A. The-Except to the limited extent of administering funding for Primary and Special Universal Services, as presently exercised by the Oklahoma Corporation Commission, the Oklahoma Corporation Commission shall not, by entering any order, adopting any rule, or otherwise taking any agency action, impose any regulation upon a provider of high-speed IP-Enable Services, including VoIP and Broadband Internet access service or broadband service-Service in its provision of such service, regardless of technology or medium used to provide such service, except as it relates to Section 139.107(A), or in review of a request by a Local Exchange Telecommunications Service Provider serving less than seventy-five thousand access lines for funding from the Oklahoma Universal Service Fund for Primary Universal Service.

B. An incumbent local exchange telecommunications service provider (ILEC) subject to the provisions of 47 U.S.C., Section 251(c) shall be required to provide unbundled access to network elements, including but not limited to loops, subloops, and collocation space within the facilities of the ILEC, to the extent specifically required under 47 C.F.R., Section 51.319 or any successor regulations issued by the Federal Communications Commission.

C. Nothing in this section shall effect the assessment of any company under Article X of the Oklahoma Constitution or Section 2801 et seq. of Title 68 of the Oklahoma Statutes.

D. Notwithstanding Subsection (A) of this Section, in the event a provider of IP-Enabled Services, including VoIP service, voluntarily seeks, and is granted, a Certificate of Convenience and Necessity from the Commission, such a provider shall have voluntarily subjected itself to regulatory oversight by the Commission as a provider of telecommunications services except for a Certificate of Convenience and Necessity granted for the sole purpose of being eligible to receive OUSF support for the provision of Special Universal Services in accordance with 17 O.S. § 139.109.1.