

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2471

By: Braddock

COMMITTEE SUBSTITUTE

An Act relating to telecommunications; amending 17 O.S. 2001, Section 131, which relates to certificate of convenience and necessity; modifying demonstration requirements for certificate; amending 17 O.S. 2001, Section 137, which relates to telephone rates; changing type of proceeding subject to provisions; modifying companies exempt from certain regulations; deleting certain references; changing type of service effected by certain provisions; amending 17 O.S. 2001, Sections 139.102, as amended by Section 2, Chapter 80, O.S.L. 2002, 139.103 and Section 3, Chapter 80, O.S.L. 2002 (17 O.S. Supp. 2003, Sections 139.102 and 139.110), which relate to the Oklahoma Telecommunications Act of 1997; adding certain definitions; modifying certain definitions; allowing a provider of telecommunications services to provide certain discounted rate or special promotions to certain customers; deleting restriction on basic local exchange service rate charges; limiting Corporation Commission regulation of certain services and packages of services; limiting certain rate increases; allowing the Commission to require submission of informational tariffs; requiring providers to comply with certain billing regulations; allowing certain providers to adjust local exchange rates in a certain manner; directing the Commission to adopt certain rules; directing the Commission to require certain providers to transmit appropriate information for a certain purpose; requiring the Commission to investigate certain violations; authorizing the Commission to determine violations, determine amount of underpayment, and assess fines; providing for amendment to the Constitution of the State of Oklahoma; modifying type of service not subject to Commission regulation; directing the Commission to order certain providers to make contributions to certain funds; defining certain term; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 17 O.S. 2001, Section 131, is amended to read as follows:

Section 131. A. No person, firm, association, corporation or cooperative shall provide telecommunications services, as defined by the rules of the Corporation Commission, to any end-user in this state without having first obtained from the Corporation Commission a Certificate of Convenience and Necessity. This section shall not be construed to require any incumbent exchange carrier to secure such a certificate for any extension within or to any territory already served by it or for any extension into a territory contiguous to a territory already served by it on which it has heretofore filed with the Commission an exchange area map showing the territory professed to be served by such incumbent exchange carrier.

B. Prior to obtaining a Certificate of Convenience and Necessity, each provider of telecommunications services, as defined by the rules of the Commission, making application for such Certificate shall be required to demonstrate ~~its~~ that it is in the public interest for the Commission to issue such Certificate of Convenience and Necessity and that it has financial, managerial, and technical ability to provide the requested telecommunications services in this state. Before commencing to provide local exchange telecommunications services in any service area, a new provider shall give notice by mail or personal service to each regional council, as defined in the Local and Regional Capital Improvement Planning Process Act, in whose district any portion of the provider's intended service area lies. The notice shall confirm that the provider is a local exchange telephone company as defined in the Nine-One-One Emergency Number Act, and shall attest that the provider shall make emergency telephone services available to its customers in accordance with the Nine-One-One Emergency Number Act. The new provider shall also forward a copy of the notice to the

Corporation Commission. The regional council shall, within fifteen (15) days of receipt of the notice, forward the notice by mail to the chief executive officer of every governing body located in the regional council district that has responsibility for operation of an emergency telephone system serving any part of the provider's intended service area.

C. Any corporation, firm, or person who fails to provide notice as required pursuant to the provisions of subsection B of this section may be fined by the Commission a sum of up to Five Hundred Dollars (\$500.00) as the Commission may deem proper after notice and opportunity for hearing. Each day's continuance of such violation, after due service upon such corporation, firm, or person, of the requirement shall be a separate offense.

SECTION 2. AMENDATORY 17 O.S. 2001, Section 137, is amended to read as follows:

Section 137. A. Except as otherwise hereafter provided, any proceeding under ~~Section 136 of~~ Article IX of the Constitution of the State of Oklahoma or this title and in any ~~other~~ proceeding to regulate the rates or services of a ~~telephone utility~~ provider of telecommunications services subject to the jurisdiction of the Corporation Commission, said Commission shall prescribe and enforce rates to provide a fair return on the fair value of the property devoted to public service in this state.

B. ~~Telephone companies~~ Providers of telecommunications service which serve less than ~~fifteen thousand (15,000)~~ seventy-five thousand (75,000) subscribers within the state and telephone cooperatives shall not be subject to local exchange rate regulation by the Corporation Commission unless:

1. The company elects by action of its board of directors to be subject to such local exchange rate regulation by the Commission;

2. The proposed local exchange rate increase exceeds Two Dollars (\$2.00) per access line per month in any one (1) year;

3. Fifteen percent (15%) of the subscribers petition the Commission to regulate local exchange rates pursuant to subsections C, D and E of this section; or

4. The Commission declares that the company shall be subject to local exchange rate regulation by the Commission pursuant to subsection F of this section.

C. Each ~~such telephone~~ company not subject to local exchange rate regulations, at least sixty (60) days before the effective date of any proposed rate change, shall notify the Commission and each of the subscribers of such company of the proposed local exchange rate change. Notice to the Commission shall include a list of the published subscribers of such company. Notice by the company to all subscribers shall:

1. Be in a form prescribed by the Commission;

2. Be by regular mail and may be included in regular subscriber billings; and

3. Include a schedule of the proposed local exchange rates, the effective date of the said rates, and the procedure necessary for the subscribers to petition the Commission to examine and determine the reasonableness of the proposed rates. If the telephone directory published by the company for its subscribers sets forth the procedure for petitioning the Commission, a reference to the location in the directory shall be adequate notice of the procedure.

D. The subscribers of a ~~telephone~~ company not subject to the Commission's local exchange rate regulation may petition the Commission to examine and determine the reasonableness of the local exchange rate change proposed by the company pursuant to subsection C of this section. The Commission shall adopt and promulgate rules and regulations governing the form of such petitions. A petition substantially in compliance with such rules and regulations shall not be deemed invalid due to minor errors in its form.

E. If, by the effective date of the proposed local exchange rate change, the Commission has received petitions from fewer than fifteen percent (15%) of the subscribers requesting that the Commission examine the proposed local exchange rate change, the Commission shall immediately certify such fact to the company and the proposed local exchange rates shall become effective as published in the notice to subscribers. If, on or before the effective date of the proposed local exchange rate change, the Commission has received petitions from fifteen percent (15%) or more of the subscribers requesting that the Commission examine and determine the reasonableness of the proposed local exchange rates, the Commission shall notify the company that it will examine and determine the reasonableness of the proposed local exchange rate change. Local exchange rates and charges established by the Commission or by a ~~telephone~~ company pursuant to this subsection and subsection C of this section shall be in force for not less than one (1) year.

F. In addition to the procedure for petition prior to any proposed local exchange rate change pursuant to subsections C through E of this section, the subscribers of a ~~telephone~~ company not subject to the Commission's local exchange rate regulation may at any time petition the Commission to declare the company be subject to such rate regulation. If the Commission determines that at least fifty-one percent (51%) of the subscribers of a company have properly petitioned that the company be subject to the Commission's rate regulation, the Commission shall certify such fact to the company and thereafter the company shall be subject to rate regulation by the Commission until at least fifty-one percent (51%) of the subscribers of the company properly petition that the company no longer shall be subject to the Commission's local exchange rate regulation. The Commission shall adopt and promulgate rules and regulations governing the petition procedure and the form of such

petitions and a petition substantially in compliance with such rules and regulations shall not be deemed invalid due to minor errors in its form.

G. Subsections A through F of this section apply only to local exchange rates and charges and shall have no effect on the Oklahoma Corporation Commission's jurisdiction over, and regulation of, intrastate ~~toll and access rates and charges~~ intercarrier compensation and services.

H. The Commission shall have the right to investigate and determine the reasonableness of the increase in local exchange rates and charges of each ~~telephone~~ company or cooperative not subject to local exchange rate regulation within one (1) year of the time local exchange rates or charges are increased. If the Commission determines such rate or charge increases are unreasonable, the Commission shall have the authority to order a rate hearing and, after such hearing, shall have the authority to rescind all or any portion of the increases found to be unreasonable.

I. When any ~~telephone utility~~ provider of telecommunications service subject to the jurisdiction of the Corporation Commission shall file with the Commission a request for review of its rates and charges, such request shall be conducted in accordance with the provisions of subsection B of Section 152 of this title.

J. It is the intention of the Legislature that this entire section is an amendment to, and alteration of Sections 18 through 34, inclusive, of Article IX of the Constitution of the State of Oklahoma, as authorized by Section 35, Article IX of said Constitution.

SECTION 3. AMENDATORY 17 O.S. 2001, Section 139.102, as amended by Section 2, Chapter 80, O.S.L. 2002 (17 O.S. Supp. 2003, Section 139.102), is amended to read as follows:

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

1. "Access line" means the facility provided and maintained by a telecommunications service provider which permits access to or from the public switched network;

2. "Broadband service" means, as used in Section 139.110 of this title, services, and underlying facilities, to the extent they are utilized to provide transmission that is packetized, regardless of the technology or medium used, including, but not limited to, wireless, copper wire, fiber optic cable, or coaxial cable, to provide such services;

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

~~3.~~ 4. "Competitive local calling area" means a local calling area within which at least two competitors, neither of which may be an affiliate of the incumbent local exchange carrier serving the local calling area, are providing local exchange services, or services comparable to local exchange regardless of the technology used to provide those services, to customers within some or all of the area within the local calling area;

5. "Competitive 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;

~~4.~~ 6. "Competitor" means, with respect to a local calling area, a CLEC or other service provider that is certificated, licensed, granted a franchise, or authorized to operate by a federal, state, or local governmental authority, if such authorization is required, to provide local exchange services, or services comparable to local exchange services, regardless of the technology used to provide those services;

7. "Competitively neutral" means not advantaging or favoring one person over another;

~~5.~~ 8. "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;

~~6.~~ 9. "Enhanced 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;

~~7.~~ 10. "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;

~~8.~~ 11. "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 regulated business of any telecommunications service provider;

~~9.~~ 12. "~~High speed Internet access capacity service~~" ~~or~~ "~~broadband service~~" means, as used in Section ~~3~~ 139.110 of this ~~act~~ 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 are utilized to transmit voice, data or video in excess of one hundred fifty (150)

kilobits per second in either direction, 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;

~~10.~~ 13. "Incumbent local exchange telecommunications service provider" or "ILEC" means, with respect to an area or exchanges, any telecommunications service provider furnishing local exchange service in such area or exchanges within this state on July 1, 1995, pursuant to a certificate of convenience and necessity or grandfathered authority;

~~11.~~ 14. "Interexchange telecommunications carrier" or "IXC" means any person, firm, partnership, corporation or other entity, except an incumbent local exchange telecommunications service provider, engaged in furnishing ~~regulated~~ interexchange telecommunications services under the jurisdiction of the Commission;

~~12.~~ 15. "Internet" means the international research-oriented network comprised of business, government, academic and other networks;

~~13.~~ 16. "Local calling area" means one or more exchanges, including wide area calling plan areas and extended area service areas that have been established by order of the Commission or by statute, within which the customers of an ILEC may place telephone calls on the ILEC network without incurring usage-sensitive toll or long distance charges. Nothing in this definition is intended to modify intercarrier compensation or traffic classification approved by the Commission;

17. "Local exchange telecommunications service" means a ~~regulated~~ switched or dedicated telecommunications service which originates and terminates within an exchange or an exchange service territory. Local 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;

~~14.~~ 18. "Local exchange telecommunications service provider" means a company holding a certificate of convenience and necessity from the Commission to provide local exchange telecommunications service;

~~15.~~ 19. "Not-for-profit hospital" means:

- a. a hospital 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 not-for-profit hospital owned by a municipality, county, or the state,

that is primarily funded by county, state, or federal support, located in this state, and devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care of patients admitted overnight or longer in order to obtain medical care, surgical care, or obstetrical care;

~~16.~~ 20. "Oklahoma High Cost Fund" means the fund established by the Commission in Cause Nos. PUD 950000117 and 950000119;

~~17.~~ 21. "Oklahoma Lifeline Fund" means the fund established and required to be implemented by the Commission pursuant to Section 139.105 of this title;

~~18.~~ 22. "Oklahoma Universal Service Fund" means the fund established and required to be implemented by the Commission pursuant to Section 139.106 of this title;

~~19.~~ 23. "Person" means any individual, partnership, association, corporation, governmental entity, public or private organization of any character, or any other entity;

~~20.~~ 24. "Primary universal service" means an access line and dial tone provided 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:

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

~~21.~~ 25. "Public 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;

~~22.~~ 26. "Public school" means all free schools supported by public taxation, and shall include grades kindergarten through twelve;

~~23.~~ 27. "Regulated telecommunications service" means the offering of telecommunications for a fee directly to the public where the rates for such service are regulated by the Commission. Regulated telecommunications service does not include the provision of nontelecommunications 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~~ rates for wireless telephone service, enhanced service, and other unregulated services, including services not

under the jurisdiction of the Commission, intrastate services described in subsection B of Section 139.103 of this title and services determined by the Commission to be competitive;

~~24.~~ 28. "Special Universal Services" means the telecommunications services supported by the OUSF which are furnished to public schools, public libraries, not-for-profit hospitals and county seats as provided for in Section 139.109 of this title;

~~25.~~ 29. "Stand-alone access line rate" means the price that a residential or business customer pays to a telecommunications service provider for the service that links the customer to or from the public switched network, when that service is not included in a package of services, a special promotion, or otherwise afforded a discounted price;

30. "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, which have been filed with the Commission and have become effective;

~~26.~~ 31. "Telecommunications" means the transmission, between or among points specified by the user, of voice or data ~~information~~ of the user's choosing, without change in the form or content of the ~~information~~ transmission as sent and received;

~~27.~~ 32. "Telecommunications carrier" means a person that provides telecommunications service in this state;

~~28.~~ 33. "Telecommunications service" means the offering of telecommunications for a fee;

~~29.~~ 34. "Universal service area" has the same meaning as the term "service area" as defined in 47 U.S.C., Section 214(e)(5); and

~~30.~~ 35. "Wire center" means a geographic area normally served by a central office.

SECTION 4. AMENDATORY 17 O.S. 2001, Section 139.103, is amended to read as follows:

Section 139.103 A. Except as provided as follows, no company shall increase or decrease any 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. A provider of telecommunications services may offer, and is encouraged to offer, to new, existing, or former customers discounted rates or other special promotions on its services, and the Commission shall not impose restrictions on a telecommunications provider's ability to offer discounts or promotions.

~~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 fewer than seventy-five thousand access lines or which are subject to subsection B of Section 137 of Title 17 of the Oklahoma Statutes may adjust local exchange rates in the manner provided for in subsection B of Section 137 of Title 17 of the Oklahoma Statutes~~ Providers of telecommunications service in this state shall not be subject to Commission regulation of the rates, terms and conditions, or manner of billing of their intrastate services or packages of services, including packages that contain services of other entities, provided:

1. The providers shall not increase the rate of a stand-alone residential access line within a local calling area that is not a

competitive local calling area by an amount that exceeds Two Dollars (\$2.00) per stand-alone residential access line per month in any twelve-month period;

2. The providers shall not increase the rate of a stand-alone residential access line within any competitive local calling area within which the aggregate number of access lines, or access line equivalents, served by CLEC's and ILEC's is fifty thousand or less by an amount that exceeds Two Dollars (\$2.00) per stand-alone residential access line per month in any twelve-month period;

3. Any provider regulated under an alternative form of regulation authorized by subsection E of this section may not increase the rate of a stand-alone single-line business or residential access line until June 15, 2005;

4. The Commission may require providers of telecommunications service to submit informational tariffs to the Director of the Public Utility Division of the Commission one (1) day prior to the commencement or modification of a service or package of services;

5. With respect to billing, the providers shall comply with the provisions of 47 C.F.R. Section 64.2401 or any successor regulation adopted by the Federal Communications Commission; and

6. Providers serving less than seventy-five thousand (75,000) access lines on January 1, 2004, may adjust their local exchange rates in the manner provided for in 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 ~~Title 17 of the Oklahoma Statutes~~ 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 ~~6~~ 139.106 of this ~~act~~ 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, 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 shall adopt rules governing quality of service shall apply equally to all local exchange telecommunications service providers and customer complaints necessary to insure high-quality, reliable services to customers within Oklahoma and shall apply the rules to all providers of telecommunications service operating within the State of Oklahoma.~~

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~~ intrastate intercarrier compensation rates and services.

I. In order to promote the enforcement of the Oklahoma Telemarketers Restriction Act, the provision of E911 emergency service to citizens of Oklahoma, and the integrity of caller identification services:

1. The Commission shall require that, where technically feasible, any provider of telecommunications or information service (the "subject service provider") that originates or forwards any communication that is transited or terminated on the network of a telecommunications service provider in Oklahoma shall transmit to the transiting telecommunications service provider and to the terminating telecommunications service provider the telephone number of the party initiating the communication and any other signaling

information that is technically and economically feasible to transmit and that accurately identifies the actual geographic location of the party initiating the communication; and

2. a. The Commission shall investigate complaints alleging violations of this subsection.
- b. If the Commission determine that the appropriate information has not been transmitted as required by paragraph 1 of this subsection, the subject service provider against whom the complaint was filed shall demonstrate that it had a legitimate business purpose for not transmitting the accurate geographic information or that it was technically or economically infeasible for the subject service provider to transmit the information. If the Commission determines that a subject service provider has violated this section, the Commission shall determine if the violation resulted in an underpayment to any service provider, and, if so, shall determine the amount of underpayment and order the violating subject service provider to make payment under the applicable tariff or interconnection agreement in the amount of the underpayment, together with a penalty in an amount equal to the greater of any penalties specified in the applicable tariff or interconnection agreement or two times the amount of the payment. In addition, the Commission may assess a fine against the violating subject service provider and may take any other action consistent with Oklahoma law that it deems necessary.

J. This section is, to the extent necessary, an amendment to, and alteration of, Sections 18 through 34, inclusive, of Article IX of the Constitution of the State of Oklahoma, as authorized by Section 35 of Article IX of said Constitution.

(17 O.S. Supp. 2003, Section 139.110), is amended to read as follows:

Section 139.110 A. The Oklahoma Corporation Commission shall not, by entering any order, adopting any rule, or otherwise taking any agency action, other than certification under Section 131 of this title for intrastate telecommunication services, impose any regulation upon a provider of high ~~speed Internet access~~ capacity service or broadband service in its provision of such service, regardless of technology or medium used to provide such service. The Commission shall order such providers, on a competitively neutral basis, to make contributions to funds described in Section 139.106 and 139.107 of this title, or to other Commission established support funds, based on retail revenues from the intrastate telecommunications services of the provider. For purposes of determining contributions, intrastate telecommunications services shall include intrastate advanced services as described in rules and orders of the Federal Communications Commission and in federal law.

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. This section is, to the extent necessary, an amendment to, and alteration of, Sections 18 through 34, inclusive, of Article IX

of the Constitution of the State of Oklahoma, as authorized by
Section 35 of Article IX of the Constitution.

SECTION 6. This act shall become effective July 1, 2004.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

49-2-8549

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