HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2194 By: Schwartz

COMMITTEE SUBSTITUTE

An Act relating to the Corporation Commission; amending 17 O.S. 2011, Sections 139.102 and 139.109, as amended by Section 1, Chapter 141, O.S.L. 2012 (17 O.S. Supp. 2012, Section 139.109), which relate to the Oklahoma Telecommunications Act of 1997; adding a definition; making not-for-profit mental health and substance abuse facilities eligible to receive certain Special Universal Services; and providing an effective date.

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

SECTION 1. AMENDATORY 17 O.S. 2011, 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;

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~~Strike thru~~ language denotes deletion from present Statutes.

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

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

5. "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. "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. "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

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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. "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. “High speed Internet access 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 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;

10. "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,

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

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

13. "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. "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. "Not-for-profit hospital" means:

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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. "Not-for-profit mental health and substance abuse facility" means a facility 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;

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

~~17.~~ 18. "Oklahoma Lifeline Fund" means the fund established and required to be implemented by the Commission pursuant to Section 139.105 of this title;

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~~18.~~ 19. "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.~~ 20. "Person" means any individual, partnership, association, corporation, governmental entity, public or private organization of any character, or any other entity;

~~20.~~ 21. "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.~~ 22. "Public library" means a library or library system that is freely open to all persons under identical conditions and which

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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.~~ 23. "Public school" means all free schools supported by public taxation, and shall include grades kindergarten through twelve;

~~23.~~ 24. "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 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;

~~24.~~ 25. "Special Universal Services" means the telecommunications services supported by the OUSF which are furnished to public schools, public libraries, not-for-profit

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hospitals and county seats as provided for in Section 139.109 of this title;

~~25.~~ 26. "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.~~ 27. "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 as sent and received;

~~27.~~ 28. "Telecommunications carrier" means a person that provides telecommunications service in this state;

~~28.~~ 29. "Telecommunications service" means the offering of telecommunications for a fee;

~~29.~~ 30. "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.~~ 31. "Wire center" means a geographic area normally served by a central office.

SECTION 2. AMENDATORY 17 O.S. 2011, Section 139.109, as amended by Section 1, Chapter 141, O.S.L. 2012 (17 O.S. Supp. 2012, Section 139.109), is amended to read as follows:

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Section 139.109 A. There is hereby created within the Corporation Commission the "Oklahoma E911 Emergency Service Fund". Beginning September 1, 1997, each local exchange telecommunications service provider shall annually contribute fifty cents ($0.50) per retail local exchange access line to the Oklahoma E911 Emergency Service Fund until the total amount contributed by all providers to the Fund equals Five Million Dollars ($5,000,000.00). The contribution amount for each service provider shall be based upon the number of retail local exchange access lines of that service provider in service on July 1 of each applicable year. The Oklahoma E911 Emergency Service Fund shall be administered by the Corporation Commission and used to defray the cost of purchasing and installing equipment for enhanced 911 emergency systems across the state. Preference for funding shall be given first to those systems established in areas of the state which do not have access to 911 emergency service before July 1, 1997, and second to areas of the state which do not have access to enhanced 911 emergency services. Funding from the E911 Emergency Service Fund shall not be used for ongoing operating costs of any emergency telephone service system. To qualify for funding, the emergency telephone service system shall have been or be in the process of being approved as provided for in the Nine-One-One Emergency Number Act. Local exchange telecommunications service providers serving fifteen percent (15%)

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or more of the access lines in the state may not apply for recovery of the contributions made to the E911 Emergency Service Fund from the Oklahoma Universal Service Fund created in Section 139.106 of this title. All monies in the Oklahoma E911 Emergency Service Fund shall be expended only for the purposes set forth in this subsection.

B. There is hereby created within the Oklahoma Department of Career and Technology Education the "Oklahoma Telecommunications Technology Training Fund". Beginning September 1, 1997, each local exchange telecommunications service provider shall annually contribute seventy-five cents ($0.75) per retail local exchange access line to the Oklahoma Telecommunications Technology Training Fund until the total amount contributed by all providers to the Fund equals Seven Million Dollars ($7,000,000.00). The contribution amount for each service provider shall be based upon the number of retail local exchange access lines of that service provider in service on July 1 of each applicable year. The Oklahoma Telecommunications Technology Training Fund shall be administered by the Oklahoma Department of Career and Technology Education working in conjunction with OneNet, and shall be used to provide statewide training of teachers and school administrators in the most effective use of telecommunications and distance learning technology for the enhancement of education throughout the state. Local exchange

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telecommunications service providers serving fifteen percent (15%) or more of the access lines in the state may not apply for recovery of the contributions made to the Oklahoma Telecommunications Technology Training Fund from the Oklahoma Universal Service Fund created in Section 139.106 of this title. All monies in the Oklahoma Telecommunications Technology Training Fund shall be expended only for the purposes set forth in this subsection.

C. The following services are hereby declared to be Special Universal Services and such services shall be provided only after funding for the Oklahoma Universal Service Fund is implemented as set forth in Section 139.101 et seq. of this title:

1. Each not-for-profit hospital in the state shall, upon written request, receive one incoming, toll-free phone number and up to a total of five access lines, free of charge, to allow incoming, toll-free calls from any location within the geographic area served by the hospital;

2. Each not-for-profit hospital, county health department, city-county health department, <u>not-for-profit mental health and substance abuse facility as defined in Section 139.102 of this title</u> and federally qualified health center in this state shall, upon written request, receive, free of charge, one telecommunications line or wireless connection sufficient for providing such telemedicine, clinical and health consultation services as the

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entity's telemedicine equipment and service applications require. The telecommunications carrier shall be entitled to reimbursement from the Oklahoma Universal Service Fund for providing the line or connection. In no case, however, shall reimbursement from the fund be made for an Internet subscriber fee or charges incurred as a result of services accessed via the Internet;

3. Each public school building wherein classrooms are contained and each public library in the state shall, upon written request, receive one incoming, toll-free phone number and up to a total of five access lines, free of charge, to allow incoming, toll-free calls from any location within the geographic area served by the school or the public library;

4. Each public school building wherein classrooms are contained and each public library in the state shall, upon written request, receive one access line, free of charge, with the ability to connect to an Internet service provider at 1.5Mbps, in the most economically efficient manner for the carrier, or an equivalent dollar credit to be applied by the public school or public library toward similar services provided by the same carrier, for the purpose of accessing the Internet. In no case shall the Oklahoma Universal Service Fund reimburse an entity for an Internet subscriber fee or charges incurred as a result of services accessed via the Internet; and

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5. Each county seat in the state shall, upon written request of the board of county commissioners, receive one incoming, toll-free phone number and up to a total of five access lines, free of charge, to allow incoming, toll-free calls from any location within the geographic area served by the county seat.

D. To the extent Special Universal Services are purchased from a telecommunications service provider by another carrier, the Special Universal Services are for the exclusive use of the not-for-profit hospital, county health department, city-county health department, federally qualified health center, public school, public library or county government. Under no circumstances shall the not-for-profit hospital, county health department, city-county health department, federally qualified health center, public school, public library or county government sell, repackage or share Special Universal Services with any other entity.

E. The Corporation Commission shall have authority to investigate and modify or reject in whole or part a Special Universal Services request under subsection C of this section if the request does not meet the specified criteria, if the Corporation Commission's investigation determines that the entity has not provided sufficient justification for the requested services, or if the Corporation Commission determines that granting the request is not in the public interest.

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SECTION 3. This act shall become effective November 1, 2013.

COMMITTEE REPORT BY: COMMITTEE ON UTILITY AND ENVIRONMENTAL REGULATION, dated 02/27/2013 - DO PASS, As Amended.

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