

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 HOUSE BILL 3386

By: Shannon

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5  
6 AS INTRODUCED

7 An Act relating to telecommunications; amending 17  
8 O.S. 2011, Section 139.102, which relates to  
9 definitions for the Oklahoma Telecommunications Act  
10 of 1997; adding certain definitions; amending 17 O.S.  
11 2011, Section 139.110, which relates to the  
12 prohibition on regulation of high speed Internet  
13 access or broadband service by the Corporation  
14 Commission; making regulation of Internet Protocol  
15 enabled services and Voice over Internet Protocol  
16 services prohibited; prohibiting the Commission from  
17 regulating any services defined as unregulated;  
18 providing for the continued regulation of primary  
19 universal services by certain incumbent local  
20 exchange telecommunications service providers; and  
21 declaring an emergency.

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

23 SECTION 1. AMENDATORY 17 O.S. 2011, Section 139.102, is  
24 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;

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

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

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

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

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

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

21 7. "Exchange" means a geographic area established by an  
22 incumbent local exchange telecommunications provider as filed with  
23 or approved by the Commission for the administration of local  
24 telecommunications service in a specified area which usually

1 embraces a city, town, or village and its environs and which may  
2 consist of one or more central offices together with associated  
3 plant used in furnishing telecommunications service in that area;

4 8. "Facilities" means all the plant and equipment of a  
5 telecommunications service provider, including all tangible and  
6 intangible real and personal property without limitation, and any  
7 and all means and instrumentalities in any manner owned, operated,  
8 leased, licensed, used, controlled, furnished, or supplied for, by,  
9 or in connection with the regulated business of any  
10 telecommunications service provider;

11 9. "High speed Internet access service" or "broadband service"  
12 means, as used in Section ~~3~~ 139.110 of this ~~act~~ title, those  
13 services and underlying facilities that provide upstream, from  
14 customer to provider, or downstream, from provider to customer,  
15 transmission to or from the Internet in excess of one hundred fifty  
16 (150) kilobits per second, regardless of the technology or medium  
17 used including, but not limited to, wireless, copper wire, fiber  
18 optic cable, or coaxial cable, to provide such service;

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

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

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

9 13. "Internet Protocol enabled service" or IP enabled service"  
10 means any service, capability, functionality or application using  
11 existing Internet Protocol, or any successor Internet Protocol, that  
12 enables an end user to send or receive a communication from or at  
13 their location in existing Internet Protocol format, or any  
14 successor Internet Protocol format, through a broadband connection  
15 regardless of whether the communication is voice, data or video;

16 14. "Local exchange telecommunications service" means a  
17 regulated switched or dedicated telecommunications service which  
18 originates and terminates within an exchange or an exchange service  
19 territory. Local exchange telecommunications service may be  
20 terminated by a telecommunications service provider other than the  
21 telecommunications service provider on whose network the call  
22 originated. The local exchange service territory defined in the  
23 originating provider's tariff shall determine whether the call is  
24 local exchange service;

1       ~~14.~~ 15. "Local exchange telecommunications service provider"  
2 means a company holding a certificate of convenience and necessity  
3 from the Commission to provide local exchange telecommunications  
4 service;

5       ~~15.~~ 16. "Not-for-profit hospital" means:

6           a. a hospital established as exempt from taxation  
7                pursuant to the provisions of the Internal Revenue  
8                Code, 26 U.S.C., Section 501(c)(3), or

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

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

16       ~~16.~~ 17. "Oklahoma High Cost Fund" means the fund established by  
17 the Commission in Cause Nos. PUD 950000117 and 950000119;

18       ~~17.~~ 18. "Oklahoma Lifeline Fund" means the fund established and  
19 required to be implemented by the Commission pursuant to Section  
20 139.105 of this title;

21       ~~18.~~ 19. "Oklahoma Universal Service Fund" means the fund  
22 established and required to be implemented by the Commission  
23 pursuant to Section 139.106 of this title;

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1       ~~19.~~ 20. "Person" means any individual, partnership,  
2 association, corporation, governmental entity, public or private  
3 organization of any character, or any other entity;

4       ~~20.~~ 21. "Primary universal service" means an access line and  
5 dial tone provided to the premises of residential or business  
6 customers which provides access to other lines for the transmission  
7 of two-way switched or dedicated communication in the local calling  
8 area without additional, usage-sensitive charges, including:

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

19       ~~21.~~ 22. "Public library" means a library or library system that  
20 is freely open to all persons under identical conditions and which  
21 is supported in whole or in part by public funds. Public library  
22 shall not include libraries operated as part of any university,  
23 college, school museum, the Oklahoma Historical Society or county  
24 law libraries;

1       ~~22.~~ 23. "Public school" means all free schools supported by  
2 public taxation, and shall include grades kindergarten through  
3 twelve;

4       ~~23.~~ 24. "Regulated telecommunications service" means the  
5 offering of telecommunications for a fee directly to the public  
6 where the rates for such service are regulated by the Commission.  
7 Regulated telecommunications service does not include the provision  
8 of nontelecommunications services, including, but not limited to,  
9 the printing, distribution, or sale of advertising in telephone  
10 directories, maintenance of inside wire, customer premises  
11 equipment, and billing and collection service, nor does it include  
12 the provision of wireless telephone service, enhanced service, and  
13 other unregulated services, including services not under the  
14 jurisdiction of the Commission, and services determined by the  
15 Commission to be competitive;

16       ~~24.~~ 25. "Special Universal Services" means the  
17 telecommunications services supported by the OUSF which are  
18 furnished to public schools, public libraries, not-for-profit  
19 hospitals and county seats as provided for in Section 139.109 of  
20 this title;

21       ~~25.~~ 26. "Tariff" means all or any part of the body of rates,  
22 tolls, charges, classifications, and terms and conditions of service  
23 relating to regulated services offered, the conditions under which  
24

1 offered, and the charges therefor, which have been filed with the  
2 Commission and have become effective;

3 ~~26.~~ 27. "Telecommunications" means the transmission, between or  
4 among points specified by the user, of voice or data information of  
5 the user's choosing, without change in the form or content of the  
6 information as sent and received;

7 ~~27.~~ 28. "Telecommunications carrier" means a person that  
8 provides telecommunications service in this state;

9 ~~28.~~ 29. "Telecommunications service" means the offering of  
10 telecommunications for a fee;

11 ~~29.~~ 30. "Universal service area" has the same meaning as the  
12 term "service area" as defined in 47 U.S.C., Section 214(e) (5);

13 31. "Voice over Internet Protocol service" or "VoIP" means a  
14 service that:

15 a. uses Internet Protocol or a successor protocol to  
16 enable a real-time, two-way voice communication that  
17 originates from or terminates to the location of the  
18 user in Internet Protocol or a successor protocol,

19 b. utilizes a broadband connection from the location of  
20 the user, and

21 c. permits a user generally to receive a call that  
22 originates on the public switched telephone network or  
23 its equivalent and to terminate a call to the public  
24 switched telephone network or its functional

1           equivalent, including but not limited to a network  
2           using Internet Protocol technology or infrastructure;  
3           and

4       ~~30.~~ 32. "Wire center" means a geographic area normally served  
5 by a central office.

6       SECTION 2.       AMENDATORY       17 O.S. 2011, Section 139.110, is  
7 amended to read as follows:

8       Section 139.110 A. The ~~Oklahoma~~ Corporation Commission shall  
9 not, by entering any order, adopting any rule, or otherwise taking  
10 any agency action, impose any regulation upon a provider of Internet  
11 Protocol enabled services, Voice over Internet Protocol service,  
12 high speed Internet access service or broadband service in its  
13 provision of such service, regardless of technology or medium used  
14 to provide such service.

15       B. The Corporation Commission shall not, by entering any order,  
16 adopting any rule, or otherwise taking any agency action, impose any  
17 regulation upon any service identified as unregulated in paragraph  
18 24 of Section 139.102 of this title.

19       C. Notwithstanding the prohibitions in subsections A and B of  
20 this section, primary universal services as defined in Section  
21 139.102 of this title provisioned by an incumbent local exchange  
22 telecommunications service provider serving fewer than seventy-five  
23 thousand (75,000) access lines on January 1, 2013, shall continue to  
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1 be regulated by the Commission and be eligible for funding from the  
2 Oklahoma Universal Service Fund.

3 D. An incumbent local exchange telecommunications service  
4 provider (ILEC) subject to the provisions of 47 U.S.C., Section  
5 251(c) shall be required to provide unbundled access to network  
6 elements, including but not limited to loops, subloops, and  
7 collocation space within the facilities of the ILEC, to the extent  
8 specifically required under 47 C.F.R., Section 51.319 or any  
9 successor regulations issued by the Federal Communications  
10 Commission.

11 ~~E.~~ E. Nothing in this section shall effect the assessment of  
12 any company under Article X of the Oklahoma Constitution or Section  
13 2801 et seq. of Title 68 of the Oklahoma Statutes.

14 SECTION 3. It being immediately necessary for the preservation  
15 of the public peace, health and safety, an emergency is hereby  
16 declared to exist, by reason whereof this act shall take effect and  
17 be in full force from and after its passage and approval.

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19 54-2-8949 KB 01/15/14

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