

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 1390

By: Pfeiffer

5  
6  
7 COMMITTEE SUBSTITUTE

8 An Act relating to the Oklahoma Telecommunications  
9 Act of 1997; amending 17 O.S. 2011, Sections 139.102,  
10 as last amended by Section 3, Chapter 270, O.S.L.  
11 2016 and 139.106, as amended by Section 4, Chapter  
12 270, O.S.L. 2016 (17 O.S. Supp. 2016, Sections  
13 139.102 and 139.106), which relate to definitions and  
14 the Oklahoma Universal Service Fund; modifying  
15 definitions; modifying references to 211 Call  
16 Centers; imposing dollar limitation with respect to  
17 211 Call Centers; providing for distribution of  
18 funds; designating entities authorized for funds;  
19 providing for Oklahoma Department of Mental Health  
20 and Substance Abuse Services to become successor in  
21 interest to funds; and providing an effective date.

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

23 SECTION 1. AMENDATORY 17 O.S. 2011, Section 139.102, as  
24 last amended by Section 3, Chapter 270, O.S.L. 2016 (17 O.S. Supp.  
2016, Section 139.102), is amended to read as follows:

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

1. "211 Call Center" means a free twenty-four-hour telephone  
information and referral service for a specified geographical area

1 or region that connects people in need with health and human  
2 services agencies and programs that can provide assistance;

3 2. "Access line" means the facilities provided and maintained  
4 by a telecommunications service provider which permit access to or  
5 from the public switched network or its functional equivalent  
6 regardless of the technology or medium used;

7 ~~2.~~ 3. "Administrative process" means an administrative  
8 application process which allows eligible local exchange  
9 telecommunications providers and eligible providers to request  
10 funding and an administrative submission process that allows  
11 Oklahoma Universal Service Fund Beneficiaries to submit a  
12 preapproval request directly with the Administrator. Both of the  
13 administrative processes shall not require an order from the  
14 Commission to determine eligibility for, allocate or disburse funds  
15 unless a request for reconsideration is filed;

16 ~~3.~~ 4. "Administrator" means the Director of the Public Utility  
17 Division of the Corporation Commission;

18 4. 5. "Commission" means the Corporation Commission of this  
19 state;

20 ~~5.~~ 6. "Competitive local exchange carrier" or "CLEC" means,  
21 with respect to an area or exchange, a telecommunications service  
22 provider that is certificated by the Commission to provide local  
23 exchange services in that area or exchange within the state after  
24 July 1, 1995;

1       ~~6.~~ 7. "Competitively neutral" means not advantaging or favoring  
2 one person or technology over another;

3       ~~7.~~ 8. "Consortium" means, as used in Section ~~6~~ 139.109.1 of  
4 this ~~act~~ title, two or more Oklahoma Universal Service Fund  
5 Beneficiaries that choose to request support under the Federal  
6 Universal Service Support Mechanism or successor program or programs  
7 as a single entity;

8       ~~8.~~ 9. "Contributing providers" means providers, including but  
9 not limited to providers of intrastate telecommunications, providers  
10 of intrastate telecommunications for a fee on a non-common-carrier  
11 basis, providers of wireless telephone service and providers of  
12 interconnected Voice over Internet Protocol (VoIP). Contributing  
13 providers shall contribute to the Oklahoma Universal Service Fund  
14 and Oklahoma Lifeline Fund. VoIP providers shall be assessed only  
15 as provided for in the decision of the Federal Communications  
16 Commission, FCC 10-185, released November 5, 2010, or such other  
17 assessment methodology that is not inconsistent with federal law.  
18 Entities exempt from contributing to the Federal Universal Service  
19 Support Mechanisms are also exempt from contributing to the Oklahoma  
20 Universal Service Fund and Oklahoma Lifeline Fund consistent with 47  
21 C.F.R., Section 54.706(d). The term "contributing providers" may be  
22 modified to conform to the definition of contributors as defined by  
23 the FCC if adopted by the Commission, after notice and hearing;

24

1       ~~9.~~ 10. "Eligible healthcare entity" means a not-for-profit  
2 hospital, county health department, city-county health department,  
3 not-for-profit mental health and substance abuse facility or  
4 Federally Qualified Health Center in Oklahoma. Eligible healthcare  
5 entity shall also include telemedicine services provided by the  
6 Oklahoma Department of Corrections at facilities identified in  
7 Section 509 of Title 57 of the Oklahoma Statutes;

8       ~~10.~~ 11. "Eligible local exchange telecommunications service  
9 provider" means ILEC, CLEC and commercial radio mobile service  
10 provider as those terms are used in the Oklahoma Telecommunications  
11 Act of 1997;

12       ~~11.~~ 12. "Eligible provider" means, for purposes of Special  
13 Universal Services, providers of telecommunications services which  
14 hold a certificate of convenience and necessity and OneNet;

15       ~~12.~~ 13. "End-User Common Line Charge" means the flat-rate  
16 monthly interstate access charge required by the Federal  
17 Communications Commission that contributes to the cost of local  
18 service;

19       ~~13.~~ 14. "Enhanced service" means a service that is delivered  
20 over communications transmission facilities and that uses computer  
21 processing applications to:

22             a. change the content, format, code, or protocol of  
23               transmitted information,

24

- 1           b.    provide the customer new or restructured information,  
2                    or  
3           c.    involve end-user interaction with information stored  
4                    in a computer;

5       ~~14.~~ 15. "Exchange" means a geographic area established by an  
6 incumbent local exchange telecommunications provider as filed with  
7 or approved by the Commission for the administration of local  
8 telecommunications service in a specified area which usually  
9 embraces a city, town, or village and its environs and which may  
10 consist of one or more central offices together with associated  
11 plant used in furnishing telecommunications service in that area;

12       ~~15.~~ 16. "Facilities" means all the plant and equipment of a  
13 telecommunications service provider, including all tangible and  
14 intangible real and personal property without limitation, and any  
15 and all means and instrumentalities in any manner owned, operated,  
16 leased, licensed, used, controlled, furnished, or supplied for, by,  
17 or in connection with the business of any telecommunications service  
18 provider;

19       ~~16.~~ 17. "Federally Qualified Health Center" or "~~FQHC~~" means  
20 an entity which:

- 21           a.    is receiving a grant under Section 330 of the Public  
22                    Health Service (PHS) Act, 42 U.S.C., Section 254b, or  
23                    is receiving funding from a grant under a contract  
24                    with the recipient of such a grant and meets the

1 requirements to receive a grant under Section 330 of  
2 the PHS Act,

3 b. based on the recommendation of the Health Resources  
4 and Services Administration within the Public Health  
5 Service, is determined by the Secretary of the  
6 Department of Health and Human Services to meet the  
7 requirements for receiving a grant as described in  
8 subparagraph a of this paragraph,

9 c. was treated by the Secretary of the Department of  
10 Health and Human Services, for purposes of part B of  
11 Section 330 of the PHS Act, as a comprehensive  
12 federally funded health center as of January 1, 1990,  
13 or

14 d. is an outpatient health program or facility operated  
15 by a tribe or tribal organization under the Indian  
16 Self-Determination Act, 25 U.S.C., Section 450f et  
17 seq., or by an urban Indian organization receiving  
18 funds under Title V of the Indian Health Care  
19 Improvement Act, 25 U.S.C., Section 1651 et seq.;

20 ~~17.~~ 18. "Federal Universal Service Support Mechanism" is the  
21 support program established by the Telecommunications Act of 1996,  
22 47 U.S.C., Section 254(h). The program includes support for  
23 schools, libraries and healthcare providers;

1       ~~18.~~ 19. "Funding year" means, for purposes of administering the  
2 Oklahoma Universal Service Fund, the period of July 1 through June  
3 30;

4       ~~19.~~ 20. "High-speed Internet access service" or "broadband  
5 service" means, as used in Section 139.110 of this title, those  
6 services and underlying facilities that provide upstream, from  
7 customer to provider, or downstream, from provider to customer,  
8 transmission to or from the Internet in excess of one hundred fifty  
9 (150) kilobits per second, regardless of the technology or medium  
10 used including, but not limited to, wireless, copper wire, fiber  
11 optic cable, or coaxial cable, to provide such service;

12       ~~20.~~ 21. "Hospital" means a healthcare entity that has been  
13 granted a license as a hospital by the Oklahoma Department of Health  
14 for that particular location;

15       ~~21.~~ 22. "Incumbent local exchange telecommunications service  
16 provider" or "ILEC" means, with respect to an area or exchanges, any  
17 telecommunications service provider furnishing local exchange  
18 service in such area or exchanges within this state on July 1, 1995,  
19 pursuant to a certificate of convenience and necessity or  
20 grandfathered authority;

21       ~~22.~~ 23. "Installation charge" means any charge for a  
22 nonrecurring service charged by an eligible provider necessary to  
23 initiate Special Universal Services. Installation charges may not  
24

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

3 ~~23.~~ 24. "Interexchange telecommunications carrier" or "IXC"  
4 means any person, firm, partnership, corporation or other entity,  
5 except an incumbent local exchange telecommunications service  
6 provider, engaged in furnishing regulated interexchange  
7 telecommunications services under the jurisdiction of the  
8 Commission;

9 ~~24.~~ 25. "Internet" means the international research-oriented  
10 network comprised of business, government, academic and other  
11 networks;

12 ~~25.~~ 26. "Local exchange telecommunications service" means a  
13 regulated switched or dedicated telecommunications service which  
14 originates and terminates within an exchange or an exchange service  
15 territory. Local exchange telecommunications service may be  
16 terminated by a telecommunications service provider other than the  
17 telecommunications service provider on whose network the call  
18 originated. The local exchange service territory defined in the  
19 originating provider's tariff shall determine whether the call is  
20 local exchange service;

21 ~~26.~~ 27. "Local exchange telecommunications service provider"  
22 means a company holding a certificate of convenience and necessity  
23 from the Commission to provide local exchange telecommunications  
24 service;

1       ~~27.~~ 28. "Not-for-profit hospital" means:

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

18       ~~28.~~ 29. "Not-for-profit mental health and substance abuse  
19       facility" means a facility, not for the sole purpose of  
20       administration, which is operated by the Department of Mental Health  
21       and Substance Abuse Services or a facility certified by the  
22       Department of Mental Health and Substance Abuse Services as a  
23       Community Mental Health Care Center, a Community-Based Structured  
24

1 Crisis Center or a Community Comprehensive Addiction Recovery  
2 Center;

3 ~~29.~~ 30. "Oklahoma High-Cost Fund" means the fund established by  
4 the Commission in Cause Nos. PUD 950000117 and 950000119;

5 ~~30.~~ 31. "Oklahoma Lifeline Fund" or "~~(OLF)~~" means the fund  
6 established and required to be implemented by the Commission  
7 pursuant to Section 139.105 of this title;

8 ~~31.~~ 32. "Oklahoma Universal Service Fund" or "~~(OUSF)~~" means the  
9 fund established and required to be implemented by the Commission  
10 pursuant to Section 139.106 of this title;

11 ~~32.~~ 33. "Oklahoma Universal Service Fund Beneficiary" means an  
12 entity eligible to receive Special Universal Services support as  
13 provided for in subsection A of Section ~~6~~ 139.109.1 of this ~~act~~  
14 title;

15 ~~33.~~ 34. "Prediscount amount" means the total cost of Special  
16 Universal Services, selected pursuant to the procedures set out in  
17 ~~subparagraph~~ paragraph 5 of subsection B of Section ~~6~~ 139.109.1 of  
18 this ~~act~~ title, before charges are reduced by federal or state  
19 funding support. The prediscount amount shall not include fees or  
20 taxes;

21 ~~34.~~ 35. "Person" means any individual, partnership,  
22 association, corporation, governmental entity, public or private  
23 organization of any character, or any other entity;

24

1       ~~35.~~ 36. "Primary universal service" means an access line and  
2 dial tone provided to the premises of residential or business  
3 customers which provides access to other lines for the transmission  
4 of two-way switched or dedicated communication in the local calling  
5 area without additional, usage-sensitive charges, including:

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

16       ~~36.~~ 37. "Public library" means a library or library system that  
17 is freely open to all persons under identical conditions and which  
18 is supported in whole or in part by public funds. Public library  
19 shall not include libraries operated as part of any university,  
20 college, school museum, the Oklahoma Historical Society or county  
21 law libraries;

22       ~~37.~~ 38. "Public school" means all free schools supported by  
23 public taxation, and shall include grades prekindergarten through  
24 twelve and technology center schools that provide vocational and

1 technical instruction for high school students who attend the  
2 technology center school on a tuition-free basis. Public school  
3 shall not include private schools, home schools or virtual schools;

4 ~~38.~~ 39. "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 ~~39.~~ 40. "Special Universal Services" means the  
17 telecommunications services supported by the OUSF which are  
18 furnished to public schools, public libraries and eligible health  
19 care entities as provided for in Section ~~6~~ 139.109.1 of this ~~act~~  
20 title;

21 ~~40.~~ 41. "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 ~~41.~~ 42. "Telecommunications" means the transmission, between or  
4 among points specified by the user, of information of the user's  
5 choosing, without change in the form or content of the information  
6 as sent and received;

7 ~~42.~~ 43. "Telecommunications carrier" means a person that  
8 provides telecommunications service in this state;

9 ~~43.~~ 44. "Telecommunications service" means the offering of  
10 telecommunications for a fee;

11 ~~44.~~ 45. "Telemedicine service" means the practice of health  
12 care delivery, diagnosis, consultation and treatment, including but  
13 not limited to the transfer of medical data or exchange of medical  
14 education information by means of audio, video or data  
15 communications. Telemedicine service shall not mean a consultation  
16 provided by telephone or facsimile machine;

17 ~~45.~~ 46. "Universal service area" has the same meaning as the  
18 term "service area" as defined in 47 U.S.C., Section 214(e) (5);

19 ~~46.~~ 47. "WAN" means a wide-area network that exists over a  
20 large-scale geographical area. A WAN connects different smaller  
21 networks, including local area networks and metro area networks,  
22 which ensures that computers and users in one location can  
23 communicate with computers and users in other locations;

24

1       ~~47.~~ 48. "Wire center" means a geographic area normally served  
2 by a central office; and

3       ~~48.~~ 49. "Wireless telephone service" means radio communication  
4 service carried on between mobile stations or receivers and land  
5 stations and by mobile stations communicating among themselves and  
6 which permits a user generally to receive a call that originates or  
7 terminates on the public switched network or its functional  
8 equivalent regardless of the radio frequencies used.

9       SECTION 2.       AMENDATORY       17 O.S. 2011, Section 139.106, as  
10 amended by Section 4, Chapter 270, O.S.L. 2016 (17 O.S. Supp. 2016,  
11 Section 139.106), is amended to read as follows:

12       Section 139.106 A. There is hereby created within the  
13 Corporation Commission the "Oklahoma Universal Service Fund" (OUSF).  
14 Not later than January 31, 1998, the Corporation Commission shall  
15 promulgate rules implementing the OUSF so that, consistent with the  
16 provisions of this section, funds can be made available to eligible  
17 local exchange telecommunications service providers and, consistent  
18 with Section ~~6~~ 139.109.1 of this ~~act~~ title, funds can be made  
19 available to eligible providers and 211 Call Centers.

20       B. The OUSF shall be funded and administered to promote and  
21 ensure the availability of primary universal services, at rates that  
22 are reasonable and affordable and Special Universal Services, and to  
23 provide for reasonably comparable services at affordable rates in  
24 rural areas as in urban areas and for 211 Call Centers. The OUSF

1 shall provide funding to local exchange telecommunications service  
2 providers that meet the eligibility criteria established in this  
3 section and to eligible providers that meet the eligibility criteria  
4 established in Section ~~6~~ 139.109.1 of this ~~act~~ title for the  
5 provision of Special Universal Services and to 211 Call Centers.

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

9 D. 1. The procedure for eligible local exchange  
10 telecommunications service providers and eligible providers to seek  
11 and obtain OUSF and Oklahoma Lifeline Fund (OLF) funding shall be as  
12 set forth in this subsection.

13 2. Within ninety (90) days after receipt of a request for funds  
14 from an eligible local exchange telecommunications service provider  
15 or an eligible provider, the Administrator as defined pursuant to  
16 Section 139.102 of this title shall independently review and  
17 determine the accuracy of the request and advise the eligible local  
18 exchange telecommunications service provider or eligible provider  
19 requesting the funds of the determination of eligibility made by the  
20 Administrator. The determination shall detail the amount of funding  
21 recoverable from the OUSF and OLF. Failure by the Administrator to  
22 issue a determination within the ninety-day period means the request  
23 for OUSF or OLF reimbursement is deemed approved on a permanent  
24 basis, and funding shall be paid within forty-five (45) days without

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

9 3. For requests seeking OUSF funds pursuant to Section ~~6~~  
10 139.109.1 of this ~~act~~ title, provided that an OUSF approval funding  
11 letter has been issued as otherwise provided for in the Oklahoma  
12 Telecommunications Act of 1997, the eligible provider shall, within  
13 sixty (60) days of the start of service, submit to the Administrator  
14 a request for reimbursement from the OUSF. The Administrator shall  
15 have sixty (60) days to issue a determination to the Oklahoma  
16 Universal Service Fund Beneficiary and eligible provider detailing  
17 the amount of funding recoverable from the OUSF. Failure by the  
18 Administrator to issue a determination within the sixty-day period  
19 means the request for OUSF reimbursement is approved as submitted.  
20 The determination shall detail the amount of funding recoverable  
21 from the OUSF. Failure by the Administrator to issue a determination  
22 shall mean the request for OUSF reimbursement is deemed approved on  
23 a permanent basis, and funding shall be paid within forty-five (45)  
24 days without an order of the Commission. If a request for

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

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

20 5. Any affected party, meaning the eligible local exchange  
21 telecommunications service provider, the eligible provider, any  
22 service provider that pays into the OUSF, the Oklahoma Universal  
23 Service Fund Beneficiary or the Attorney General, shall have fifteen  
24 (15) days to file a request for reconsideration by the Commission of

1 the determination made by the Administrator. If the Commission does  
2 not issue a final order within thirty (30) days from the date the  
3 request for reconsideration is filed, the request shall be deemed  
4 approved on an interim basis subject to refund with interest. The  
5 interest rate on a refund shall be at a rate of not more than the  
6 interest rate established by the Commission on customer deposits and  
7 shall accrue for a period not to exceed ninety (90) days from the  
8 date the funds were received by the requesting eligible local  
9 exchange telecommunications service provider or eligible provider.  
10 If the Commission does not issue a final order within one hundred  
11 twenty (120) days of the filing of the request for reconsideration,  
12 then the request for OUSF or OLF funding as filed shall be deemed  
13 approved on a permanent basis without order of the Commission, and  
14 the OUSF and OLF funding shall be paid without an order of the  
15 Commission within forty-five (45) days.

16 6. The term "final order" as used in this subsection shall mean  
17 an order which resolves all issues associated with the request for  
18 OUSF or OLF funding.

19 E. Contributing providers may, at their option, recover from  
20 their retail customers the OUSF charges paid by the contributing  
21 provider. The OUSF charges shall not be subject to state or local  
22 taxes or franchise fees.

23 F. The Commission shall not, prior to implementation and the  
24 availability of funds from the OUSF, require local exchange

1 telecommunications service providers to reduce rates for intrastate  
2 access services.

3 G. Any eligible local exchange telecommunications service  
4 provider may request funding from the OUSF as necessary to maintain  
5 rates for primary universal services that are reasonable and  
6 affordable. OUSF funding shall be provided to eligible local  
7 exchange telecommunications service providers for the following:

8 1. To reimburse eligible local exchange telecommunications  
9 service providers for the reasonable investments and expenses not  
10 recovered from the federal universal service fund or any other state  
11 or federal government fund incurred in providing universal services;

12 2. Infrastructure expenditures or costs incurred in response to  
13 facility or service requirements established by a legislative,  
14 regulatory, or judicial authority or other governmental entity  
15 mandate;

16 3. For reimbursement of the Lifeline Service Program credits as  
17 set forth in Section 139.105 of this title;

18 4. To reimburse eligible local exchange telecommunications  
19 service providers for providing the Special Universal Services as  
20 set forth in Section ~~6~~ 139.109.1 of this ~~act~~ title;

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

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

3       H. In identifying and measuring the costs of providing primary  
4 universal services, exclusively for the purpose of determining OUSF  
5 funding levels under this section, the eligible local exchange  
6 telecommunications service provider serving less than seventy-five  
7 thousand access lines shall, at its option:

8       1. Calculate such costs by including all embedded investments  
9 and expenses incurred by the eligible local exchange  
10 telecommunications service provider in the provision of primary  
11 universal service, and may identify high-cost areas within the local  
12 exchange area it serves and perform a fully distributed allocation  
13 of embedded costs and identification of associated primary universal  
14 service revenue. Such calculation may be made using fully  
15 distributed Federal Communications Commission parts 32, 36 and 64  
16 costs, if such parts are applicable. The high-cost area shall be no  
17 smaller than a single exchange, wire center, or census block group,  
18 chosen at the option of the eligible local exchange  
19 telecommunications service provider;

20       2. Adopt the cost studies approved by the Commission for a  
21 local exchange telecommunications service provider that serves  
22 seventy-five thousand or more access lines; or

23       3. Adopt such other costing or measurement methodology as may  
24 be established for such purpose by the Federal Communications

1 Commission pursuant to Section 254 of the federal Telecommunications  
2 Act of 1996.

3 I. In identifying and measuring the cost of providing primary  
4 universal services, and exclusively for the purpose of determining  
5 OUSF funding levels pursuant to this section, each ILEC which serves  
6 seventy-five thousand or more access lines and each CLEC shall  
7 identify high-cost areas within the local exchange and perform a  
8 cost study using a Commission-approved methodology from those  
9 identified in subsection H of this section. The high-cost area  
10 shall be no smaller than a single exchange, wire center or census  
11 block group chosen at the option of the eligible ILEC or CLEC. If  
12 the Commission fails to approve the selected methodology within one  
13 hundred twenty (120) days of the filing of the selection, the  
14 selected methodology shall be deemed approved.

15 J. The Commission may by rule expand primary universal services  
16 to be supported by the OUSF, after notice and hearing. The  
17 Administrator, upon approval of the Commission, shall determine the  
18 level of additional OUSF funding to be made available to an eligible  
19 local exchange telecommunications service provider which is required  
20 to recover the cost of any expansion of universal services.

21 K. 1. Each request for OUSF funding by an eligible ILEC  
22 serving less than seventy-five thousand access lines shall be  
23 premised upon the occurrence of one or more of the following:  
24

- 1 a. in the event of a Federal Communications Commission  
2 order, rule or policy, the effect of which is to  
3 decrease the federal universal service fund revenues  
4 of an eligible local exchange telecommunications  
5 service provider, the eligible local exchange  
6 telecommunications service provider shall recover the  
7 decreases in revenues from the OUSF,
- 8 b. if, as a result of changes required by existing or  
9 future federal or state regulatory rules, orders, or  
10 policies or by federal or state law, an eligible local  
11 exchange telecommunications service provider  
12 experiences a reduction in revenues or an increase in  
13 costs, it shall recover the revenue reductions or cost  
14 increases from the OUSF, the recovered amounts being  
15 limited to the net reduction in revenues or cost  
16 increases, or
- 17 c. if, as a result of changes made as required by  
18 existing or future federal or state regulatory rules,  
19 orders, or policies or by federal or state law, an  
20 eligible local exchange telecommunications service  
21 provider experiences a reduction in costs, upon  
22 approval by the Commission, the provider shall reduce  
23 the level of OUSF funding it receives to a level  
24 sufficient to account for the reduction in costs.

1           2. The receipt of OUSF funds for any of the changes referred to  
2 in this subsection shall not be conditioned upon any rate case or  
3 earnings investigation by the Commission. The Commission shall,  
4 pursuant to subsection D of this section, approve the request for  
5 payment or adjustment of payment from the OUSF based on a comparison  
6 of the total annual revenues received from the sources affected by  
7 the changes described in paragraph 1 of this subsection by the  
8 requesting eligible local exchange telecommunications service  
9 provider during the most recent twelve (12) months preceding the  
10 request, and the reasonable calculation of total annual revenues or  
11 cost increases which will be experienced after the changes are  
12 implemented by the requesting eligible local exchange  
13 telecommunications service provider.

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

22           M. The incumbent local exchange telecommunications service  
23 provider, its successors and assigns, which owned, maintained and  
24 provided facilities for universal service within a local exchange

1 area on January 1, 1996, shall be the local exchange  
2 telecommunications service provider eligible for OUSF funding within  
3 the local exchange area, except as otherwise provided for in this  
4 act.

5 N. 1. Where the incumbent local exchange telecommunications  
6 service provider receives or is eligible to receive monies from the  
7 OUSF, except as otherwise provided in this section, the Commission,  
8 after notice and hearing, may designate other local exchange  
9 telecommunications service providers to be eligible for the funding,  
10 provided:

11 a. the other local exchange telecommunications service  
12 provider is certificated by the Commission to provide  
13 and offers the primary universal services supported by  
14 the OUSF to all customers in the universal service  
15 area designated by the Commission, using its own  
16 facilities, or a combination of its own facilities and  
17 the resale of the services or facilities of another.  
18 Universal service support under this subsection shall  
19 not begin until the other local exchange  
20 telecommunications service provider has facilities in  
21 place,

22 b. the other local exchange telecommunications service  
23 provider may only receive funding for the portion of  
24

1 the facilities that it owns, maintains, and uses for  
2 regulated services,

3 c. the other local exchange telecommunications service  
4 provider shall not receive OUSF funding at a level  
5 higher than the level of funding the incumbent local  
6 exchange telecommunications service provider is  
7 eligible to receive for the same area if the incumbent  
8 local exchange telecommunications service provider is  
9 also providing service in the same area; provided, the  
10 cost of any cost studies required to be performed  
11 shall be borne by the party requesting such studies,  
12 unless the party performing the study utilizes the  
13 study for its own benefit,

14 d. the other local exchange telecommunications service  
15 provider advertises the availability and charges for  
16 services it provides through a medium of general  
17 distribution, and

18 e. it is determined by the Commission that the  
19 designation is in the public interest and the other  
20 local exchange telecommunications service provider is  
21 in compliance with all Commission rules for which a  
22 waiver has not been granted.

23 2. Notwithstanding the criteria set forth in this section for  
24 designation as an eligible local exchange telecommunications service

1 provider, a commercial mobile radio service provider may, after  
2 notice and hearing, seek reimbursement from the OUSF for the  
3 provision of services supported by the OUSF, and any  
4 telecommunications carrier may seek reimbursement from the OUSF for  
5 the provision of Lifeline Service consistent with Section 139.105 of  
6 this title and for the provision of Special Universal Services  
7 consistent with Section ~~6~~ 139.109.1 of this ~~act~~ title.

8 O. In exchanges or wire centers where the Commission has  
9 designated more than one local exchange telecommunications service  
10 provider as eligible for OUSF funding, the Commission shall permit  
11 one or more of the local exchange telecommunications service  
12 providers in the area to relinquish the designation as a local  
13 exchange telecommunications service provider eligible for OUSF  
14 funding in a manner consistent with Section 214(e)(4) of the federal  
15 Telecommunications Act of 1996, upon a finding that at least one  
16 eligible local exchange telecommunications service provider shall  
17 continue to assume the carrier-of-last-resort obligations throughout  
18 the area.

19 P. For any area served by an incumbent local exchange  
20 telecommunications service provider which serves less than seventy-  
21 five thousand access lines within the state, only the incumbent  
22 local exchange telecommunications service provider shall be eligible  
23 for OUSF funding except:  
24

1 1. Other eligible telecommunications carriers which provide  
2 Special Universal Services or Lifeline Service shall be eligible to  
3 request and receive OUSF funds in the same manner as the incumbent  
4 local exchange telecommunications service provider in the same area  
5 pursuant to the Oklahoma Telecommunications Act of 1997;

6 2. The incumbent local exchange telecommunications service  
7 provider may elect to waive the right to be the only eligible local  
8 exchange telecommunications service provider within the local  
9 exchange area by filing notice with the Commission; or

10 3. When the Commission, after notice and hearing, makes a  
11 determination that it is in the public interest that another local  
12 exchange telecommunications service provider should also be deemed a  
13 carrier of last resort and be eligible to receive OUSF funding in  
14 addition to the incumbent local exchange telecommunications service  
15 provider. It shall not be in the public interest to designate  
16 another local exchange telecommunications service provider as being  
17 a carrier of last resort and eligible to receive OUSF funding if  
18 such designation would cause a significant adverse economic impact  
19 on users of telecommunications services generally or if the other  
20 carrier refuses to seek and accept carrier-of-last-resort  
21 obligations throughout the universal service area as designated by  
22 the Commission. The other local exchange telecommunications service  
23 provider shall not receive OUSF funding at a level higher than the  
24 level of funding the incumbent local exchange telecommunications

1 service provider is eligible to receive for the same area if the  
2 incumbent local exchange telecommunications service provider is also  
3 providing service in the same area and the other local exchange  
4 telecommunications service provider meets the requirements of  
5 subparagraphs a, b, d and e of paragraph 1 of subsection N of this  
6 section.

7 Q. No more than One Million Dollars (\$1,000,000.00) from the  
8 Oklahoma Universal Service Fund shall be made available to 211 Call  
9 Centers. The Administrator shall distribute these funds equally  
10 between the entity known as "Heartline" and the entity known as  
11 "Community Service Council of Greater Tulsa". If either or both of  
12 the entities otherwise authorized to receive funding from the  
13 Universal Service Fund does not enter into contract or terminates a  
14 contract, the Oklahoma Department of Mental Health and Substance  
15 Abuse Services shall be eligible to receive the share of funding  
16 authorized pursuant to the provisions of this subsection and shall  
17 be considered a successor in interest to the funds otherwise  
18 allocable pursuant to this subsection.

19 SECTION 3. This act shall become effective November 1, 2017.

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21 56-1-7030 JM 02/21/17  
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