

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1390

By: Pfeiffer and Biggs

7
8 COMMITTEE SUBSTITUTE

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

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

24 SECTION 1. AMENDATORY 17 O.S. 2011, Section 139.102, as
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 1. "211 Call Center" means a free twenty-four-hour telephone
2 information and referral service for a specified geographical area
3 or region that connects people in need with health and human
4 services agencies and programs that can provide assistance;

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

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

18 ~~3.~~ 4. "Administrator" means the Director of the Public Utility
19 Division of the Corporation Commission;

20 ~~4.~~ 5. "Commission" means the Corporation Commission of this
21 state;

22 ~~5.~~ 6. "Competitive local exchange carrier" or "CLEC" means,
23 with respect to an area or exchange, a telecommunications service
24 provider that is certificated by the Commission to provide local

1 exchange services in that area or exchange within the state after
2 July 1, 1995;

3 ~~6.~~ 7. "Competitively neutral" means not advantaging or favoring
4 one person or technology over another;

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

10 ~~8.~~ 9. "Contributing providers" means providers, including but
11 not limited to providers of intrastate telecommunications, providers
12 of intrastate telecommunications for a fee on a non-common-carrier
13 basis, providers of wireless telephone service and providers of
14 interconnected Voice over Internet Protocol (VoIP). Contributing
15 providers shall contribute to the Oklahoma Universal Service Fund
16 and Oklahoma Lifeline Fund. VoIP providers shall be assessed only
17 as provided for in the decision of the Federal Communications
18 Commission, FCC 10-185, released November 5, 2010, or such other
19 assessment methodology that is not inconsistent with federal law.
20 Entities exempt from contributing to the Federal Universal Service
21 Support Mechanisms are also exempt from contributing to the Oklahoma
22 Universal Service Fund and Oklahoma Lifeline Fund consistent with 47
23 C.F.R., Section 54.706(d). The term "contributing providers" may be
24

1 modified to conform to the definition of contributors as defined by
2 the FCC if adopted by the Commission, after notice and hearing;

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

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

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

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

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

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

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

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

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

- a. is receiving a grant under Section 330 of the Public Health Service (PHS) Act, 42 U.S.C., Section 254b, or

1 is receiving funding from a grant under a contract
2 with the recipient of such a grant and meets the
3 requirements to receive a grant under Section 330 of
4 the PHS Act,

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

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

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

22 ~~17.~~ 18. "Federal Universal Service Support Mechanism" is the
23 support program established by the Telecommunications Act of 1996,
24

1 47 U.S.C., Section 254(h). The program includes support for
2 schools, libraries and healthcare providers;

3 ~~18.~~ 19. "Funding year" means, for purposes of administering the
4 Oklahoma Universal Service Fund, the period of July 1 through June
5 30;

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

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

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

23 ~~22.~~ 23. "Installation charge" means any charge for a
24 nonrecurring service charged by an eligible provider necessary to

1 initiate Special Universal Services. Installation charges may not
2 exceed the cost which would be charged for installation, if the cost
3 were not being paid for by the OUSF;

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

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

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

22 ~~26.~~ 27. "Local exchange telecommunications service provider"
23 means a company holding a certificate of convenience and necessity
24

1 from the Commission to provide local exchange telecommunications
2 service;

3 ~~27.~~ 28. "Not-for-profit hospital" means:

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

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

1 Community Mental Health Care Center, a Community-Based Structured
2 Crisis Center or a Community Comprehensive Addiction Recovery
3 Center;

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

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

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

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

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

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

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;

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:

- 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.
20

21 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
22 02/21/2017 - DO PASS, As Amended and Coauthored.
23
24