

1 STATE OF OKLAHOMA

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

3 SENATE BILL 487

By: Shortey

4
5
6 AS INTRODUCED

7 An Act relating to prepaid wireless communications
8 service; amending 17 O.S. 2011, Sections 139.102, as
9 last amended by Section 3, Chapter 270, O.S.L. 2016,
10 139.106, as amended by Section 4, Chapter 270, O.S.L.
11 2016, 139.107, as amended by Section 5, Chapter 270,
12 O.S.L. 2016 and Section 6, Chapter 270, O.S.L. 2016
13 (17 O.S. Supp. 2016, Sections 139.102, 139.106,
14 139.107 and 139.109.1), which relate to definitions,
15 the Oklahoma Universal Service Fund, administration
16 of funds and Special Universal Services funding;
17 defining terms; conforming language; eliminating
18 certain use of Oklahoma Universal Service Fund
19 funding; specifying terms of collection for Fund
20 charge applicable to prepaid wireless
21 telecommunications service; specifying terms of rate
22 of Fund charge conversion; requiring rate change to
23 be applied by July 1 of calendar year; prohibiting
24 more than one rate change per year; requiring
Corporation Commission to notify Tax Commission of
certain rate changes; authorizing Corporation
Commission to investigate waste or abuse in certain
situations; amending Sections 2, 5, 6 and 7, Chapter
324, O.S.L. 2016 (63 O.S. Supp. 2016, Sections 2862,
2865, 2866 and 2867), which relate to definitions,
fees and transactions, collection, payment,
distribution of fees and fees; defining terms;
conforming language; adding fee on certain prepaid
wireless transactions; updating statutory references;
creating Combined Prepaid Wireless 9-1-1- fee and
Oklahoma Universal Service Fund charge; eliminating
terms of prepaid 9-1-1 fee; specifying terms of
combined fee; requiring combined fee to be disclosed
to consumer in certain manners; eliminating certain
references to prepaid 9-1-1 wireless telephone fee;

1 updating statutory references; and providing an
2 effective date.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. AMENDATORY 17 O.S. 2011, Section 139.102, as
6 last amended by Section 3, Chapter 270, O.S.L. 2016 (17 O.S. Supp.
7 2016, Section 139.102), is amended to read as follows:

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

10 1. "Access line" means the facilities provided and maintained
11 by a telecommunications service provider which permit access to or
12 from the public switched network or its functional equivalent
13 regardless of the technology or medium used;

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

1 3. "Administrator" means the Director of the Public Utility
2 Division of the Corporation Commission;

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

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

9 6. "Competitively neutral" means not advantaging or favoring
10 one person or technology over another;

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

16 8. "Contributing providers" means providers, including but not
17 limited to providers of intrastate telecommunications, providers of
18 intrastate telecommunications for a fee on a non-common-carrier
19 basis, providers of wireless telephone service and providers of
20 interconnected Voice over Internet Protocol (VoIP). Contributing
21 providers shall contribute to the Oklahoma Universal Service Fund
22 and Oklahoma Lifeline Fund. VoIP providers shall be assessed only
23 as provided for in the decision of the Federal Communications
24 Commission, FCC 10-185, released November 5, 2010, or such other

1 assessment methodology that is not inconsistent with federal law.
2 Entities exempt from contributing to the Federal Universal Service
3 Support Mechanisms are also exempt from contributing to the Oklahoma
4 Universal Service Fund and Oklahoma Lifeline Fund consistent with 47
5 C.F.R., Section 54.706(d). The term "contributing providers" may be
6 modified to conform to the definition of contributors as defined by
7 the FCC if adopted by the Commission, after notice and hearing;

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

15 10. "Eligible local exchange telecommunications service
16 provider" means ILEC, CLEC and commercial radio mobile service
17 provider as those terms are used in the Oklahoma Telecommunications
18 Act of 1997;

19 11. "Eligible provider" means, for purposes of Special
20 Universal Services, providers of telecommunications services which
21 hold a certificate of convenience and necessity and OneNet;

22 12. "End User Common Line Charge" means the flat-rate monthly
23 interstate access charge required by the Federal Communications
24 Commission that contributes to the cost of local service;

1 13. "Enhanced service" means a service that is delivered over
2 communications transmission facilities and that uses computer
3 processing applications to:

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

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

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

1 16. "Federally Qualified Health Center" or "(FQHC)" means an
2 entity which:

3 a. is receiving a grant under Section 330 of the Public
4 Health Service (PHS) Act, 42 U.S.C., Section 254b, or
5 is receiving funding from a grant under a contract
6 with the recipient of such a grant and meets the
7 requirements to receive a grant under Section 330 of
8 the PHS Act,

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

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

20 d. is an outpatient health program or facility operated
21 by a tribe or tribal organization under the Indian
22 Self-Determination Act, 25 U.S.C., Section 450f et
23 seq., or by an urban Indian organization receiving
24

1 funds under Title V of the Indian Health Care
2 Improvement Act, 25 U.S.C., Section 1651 et seq.;

3 17. "Federal Universal Service Support Mechanism" is the
4 support program established by the Telecommunications Act of 1996,
5 47 U.S.C., Section 254(h). The program includes support for
6 schools, libraries and healthcare providers;

7 18. "Funding year" means, for purposes of administering the
8 Oklahoma Universal Service Fund, the period of July 1 through June
9 30;

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

18 20. "Hospital" means a healthcare entity that has been granted
19 a license as a hospital by the Oklahoma Department of Health for
20 that particular location;

21 21. "Incumbent local exchange telecommunications service
22 provider" or "ILEC" means, with respect to an area or exchanges, any
23 telecommunications service provider furnishing local exchange
24 service in such area or exchanges within this state on July 1, 1995,

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

3 22. "Installation charge" means any charge for a nonrecurring
4 service charged by an eligible provider necessary to initiate
5 Special Universal Services. Installation charges may not exceed the
6 cost which would be charged for installation, if the cost were not
7 being paid for by the OUSF;

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

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

16 25. "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 26. "Local exchange telecommunications service provider" means
2 a company holding a certificate of convenience and necessity from
3 the Commission to provide local exchange telecommunications service;

4 27. "Not-for-profit hospital" means:

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

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

1 and Substance Abuse Services as a Community Mental Health Care
2 Center, a Community-Based Structured Crisis Center or a Community
3 Comprehensive Addiction Recovery Center;

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

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

21 34. "Prepaid wireless telecommunications service" means prepaid
22 wireless telecommunications service as that term is defined in
23 paragraph 7 of Section 2862 of Title 63 of the Oklahoma Statutes;
24

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

4 ~~35.~~ 36. "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 ~~36.~~ 37. "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 ~~37.~~ 38. "Public school" means all free schools supported by
2 public taxation, and shall include grades prekindergarten through
3 twelve and technology center schools that provide vocational and
4 technical instruction for high school students who attend the
5 technology center school on a tuition-free basis. Public school
6 shall not include private schools, home schools or virtual schools;

7 ~~38.~~ 39. "Regulated telecommunications service" means the
8 offering of telecommunications for a fee directly to the public
9 where the rates for such service are regulated by the Commission.
10 Regulated telecommunications service does not include the provision
11 of nontelecommunications services, including, but not limited to,
12 the printing, distribution, or sale of advertising in telephone
13 directories, maintenance of inside wire, customer premises
14 equipment, and billing and collection service, nor does it include
15 the provision of wireless telephone service, enhanced service, and
16 other unregulated services, including services not under the
17 jurisdiction of the Commission, and services determined by the
18 Commission to be competitive;

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

23 ~~40.~~ 41. "Tariff" means all or any part of the body of rates,
24 tolls, charges, classifications, and terms and conditions of service

1 relating to regulated services offered, the conditions under which
2 offered, and the charges therefor, which have been filed with the
3 Commission and have become effective;

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

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

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

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

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

20 ~~46.~~ 47. "WAN" means a wide-area network that exists over a
21 large-scale geographical area. A WAN connects different smaller
22 networks, including local area networks and metro area networks,
23 which ensures that computers and users in one location can
24 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.

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. The OUSF shall provide funding to

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

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
22 determination shall mean the request for OUSF reimbursement is
23 deemed approved on a permanent basis, and funding shall be paid
24 within forty-five (45) days without an order of the Commission. If

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

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 SECTION 3. AMENDATORY 17 O.S. 2011, Section 139.107, as
8 amended by Section 5, Chapter 270, O.S.L. 2016 (17 O.S. Supp. 2016,
9 Section 139.107), is amended to read as follows:

10 Section 139.107. A. The Oklahoma Lifeline Fund (OLF) and the
11 Oklahoma Universal Service Fund (OUSF) shall be funded in a
12 competitively neutral manner not inconsistent with federal law by
13 all contributing providers. The funding from each contributing
14 provider shall be based on the total intrastate retail Oklahoma
15 Voice over Internet Protocol (VoIP) revenues and intrastate
16 telecommunications revenues, from both regulated and unregulated
17 services, of the contributing provider, hereinafter referred to as
18 assessed revenues, as a percentage of all assessed revenues of the
19 contributing providers, or such other assessment methodology not
20 inconsistent with federal law. VoIP services shall be assessed only
21 as provided for in the decision of the Federal Communications
22 Commission, FCC 10-185, released November 5, 2010, or such other
23 assessment methodology that is not inconsistent with federal law.
24 The Commission may after notice and hearing modify the contribution

1 methodology for the OUSF and OLF, provided the new methodology is
2 not inconsistent with federal law.

3 B. The Corporation Commission shall establish the OLF
4 assessment and the OUSF assessment at a level sufficient to recover
5 costs of administration and payments for OUSF and OLF requests for
6 funding as provided for in the Oklahoma Telecommunications Act of
7 1997. The administration of the OLF and OUSF shall be provided by
8 the Public Utility Division of the Commission. The administrative
9 function shall be headed by the Administrator as defined in Section
10 139.102 of this title. The Administrator shall be an independent
11 evaluator. The Administrator may enter into contracts to assist
12 with the administration of the OLF and OUSF.

13 C. If the Commission determines after notice and hearing that a
14 contributing provider has acted in violation of this section, in
15 addition to the other enforcement powers of the Commission,
16 including its contempt powers and authority to revoke a
17 telecommunications service provider's certificate of convenience and
18 necessity, the Commission may bring an action on behalf of the OLF
19 or the OUSF, in a court of competent jurisdiction that the
20 Commission deems appropriate, to recover any unpaid fees and
21 assessments the Commission has determined are due and payable,
22 including interest, administrative and adjudicative costs, and
23 attorney fees. Upon collection of the assessments, fees and costs,
24

1 the Administrator shall pay the costs of the actions and deposit the
2 remaining funds in the OLF or the OUSF as appropriate.

3 D. The monies deposited in the OLF, the OUSF and the Oklahoma
4 High Cost Fund shall at no time become monies of the state and shall
5 not become part of the general budget of the Corporation Commission
6 or any other state agency. Except as otherwise authorized by the
7 Oklahoma Telecommunications Act of 1997, no monies from the OLF, the
8 OUSF, or the Oklahoma High Cost Fund shall be transferred for any
9 purpose to any other state agency or any account of the Corporation
10 Commission or be used for the purpose of contracting with any other
11 state agency or reimbursing any other state agency for any expense.
12 Payments from the OLF, the OUSF, and the Oklahoma High Cost Fund
13 shall not become or be construed to be an obligation of this state.
14 No claims for reimbursement from the OLF, the OUSF or the Oklahoma
15 High Cost Fund shall be paid with state monies.

16 E. 1. The OUSF charge applicable to prepaid wireless
17 telecommunications service shall be collected by the seller from the
18 consumer on each retail transaction in accordance with the
19 procedures established under Sections 2865 and 2867 of Title 63 of
20 the Oklahoma Statutes and is the only OUSF imposition that may be
21 applied to prepaid wireless telecommunications service. The OUSF
22 charge shall be remitted by the seller to the Tax Commission using
23 procedures established by Sections 2865 and 2867 of Title 63 of the
24 Oklahoma Statutes.

1 2. The rate of the OUSF charge applicable to prepaid wireless
2 telecommunications service shall be converted from a percentage to a
3 flat transaction amount by multiplying the percentage rate
4 established by the Corporation Commission by the inverse of the
5 Federal Communications Commission "safe harbor" percentage for
6 determining the interstate portion of a fixed monthly wireless
7 charge, and then multiplying the result times Twenty-five Dollars
8 (\$25.00). Such amount shall be rounded to the nearest whole cent.

9 3. Any rate change approved by the Corporation Commission shall
10 be applied on July 1 of any calendar year. The Commission shall
11 notify the Tax Commission within fifteen (15) days of final approval
12 of any change in the OUSF rate applicable to prepaid
13 telecommunications service. No more than one rate change shall be
14 permitted in a calendar year.

15 SECTION 4. AMENDATORY Section 6, Chapter 270, O.S.L.
16 2016 (17 O.S. Supp. 2016, Section 139.109.1), is amended to read as
17 follows:

18 Section 139.109.1. A. The following services are hereby
19 declared to be Special Universal Services:

20 1. Each eligible healthcare entity in this state as defined in
21 Section 139.102 of ~~Title 17 of the Oklahoma Statutes~~ this title
22 shall be eligible to receive Special Universal Services for
23 telemedicine providers. Special Universal Services for telemedicine
24 providers shall include the provision of bandwidth per standards as

1 recommended by the Federal Communications Commission sufficient for
2 providing telemedicine services including the telemedicine line,
3 reasonable installation and network termination equipment owned and
4 operated by the eligible provider that is necessary to provide the
5 eligible telemedicine service;

6 2. Each public school as defined in Section 139.102 of ~~Title 17~~
7 ~~of the Oklahoma Statutes~~ this title shall be eligible to receive
8 Special Universal Services for schools. Special Universal Services
9 for schools shall include the E-rate Eligible Services List (ESL)
10 for Category One services as determined by the FCC for the
11 applicable funding year or, in the absence of such a list, as
12 published by the Universal Services Administrative Company. In the
13 event no ESL is available from the FCC or USAC for the applicable
14 funding year, eligible services will be those on the ESL for the
15 last funding year for which an ESL was available. Special Universal
16 Services shall include the provision of bandwidth sufficient for
17 providing educational services not to exceed, without good cause
18 shown, the standards established for the relevant funding year by
19 the State Educational Technology Directors Association (SETDA) or
20 successor educational broadband standard including Internet access
21 lines, WAN connections, reasonable installation, and network
22 termination equipment owned and operated by the eligible provider as
23 defined by the ESL that is necessary to provide the eligible
24 service. Student counts as reported to the State Department of

1 Education in October of the year prior to the relevant funding year
2 shall be utilized for the purpose of determining bandwidth
3 recommendations established by SETDA for purposes of this paragraph.
4 In the absence of standards prescribed for the applicable funding
5 year, the standards for the next prescribed funding year shall be
6 used. Special Universal Services shall not include voice services
7 that use separate lines or have allocated bandwidth. The Commission
8 may modify the service considered to be Special Universal Services
9 pursuant to rule, after notice and hearing; and

10 3. Each public library as defined in Section 139.102 of ~~Title~~
11 ~~17 of the Oklahoma Statutes~~ this title shall be eligible to receive
12 Special Universal Services for libraries. Special Universal
13 Services for libraries shall include the E-rate Eligible Services
14 List ("ESL") for Category One services as determined by the Federal
15 Communications Commission for the applicable funding year or, in the
16 absence of such a list, as published by the Universal Services
17 Administrative Company. In the event no ESL is available from the
18 FCC or USAC for the applicable funding year, eligible services will
19 be those on the ESL for the last funding year for which an ESL was
20 available. Special Universal Services shall include the provision
21 of bandwidth sufficient for providing library services per standards
22 as recommended by the Federal Communications Commission including
23 Internet access lines, reasonable installation and network
24 termination equipment owned and operated by the eligible provider

1 that is necessary to provide the eligible service. Special
2 Universal Services shall not include voice services that use
3 separate lines or have allocated bandwidth. The Commission may
4 modify the services considered to be Special Universal Services
5 pursuant to rule, after notice and hearing.

6 B. 1. Eligible services that are exempt from competitive
7 bidding pursuant to state law or the rules of the Federal Universal
8 Service Support Mechanisms or successor program or programs shall be
9 exempt from the Special Universal Services competitive bidding
10 requirements set forth in this subsection, and the Oklahoma
11 Universal Service Fund Beneficiary must provide evidence of such
12 exemption as part of the funding request.

13 2. An OUSF Beneficiary may be eligible to receive funding from
14 both the OUSF and other state or federal funds; however, in no
15 instance shall there be a double recovery. The OUSF Beneficiary
16 shall make every reasonable effort to obtain funding from another
17 state and/or federal fund designed to support Special Universal
18 Services. The OUSF Beneficiary shall provide the OUSF Administrator
19 with information regarding the recipient's request for funding from
20 government sources designed to support the provisioning of Special
21 Universal Services, or an explanation of why such funding is not
22 available or why the recipient of the Special Universal Services did
23 not request such funding. Failure to provide such documentation may
24 result in the OUSF Administrator denying in whole or in part, a

1 request for Special Universal Services funding from the OUSF. If an
2 OUSF Beneficiary is not eligible to receive funding from other state
3 or federal funds per the program rules of the other state or federal
4 funds, the OUSF Beneficiary shall be exempt from the requirement to
5 obtain funding from another state and/or federal fund designed to
6 support Special Universal Services set forth in this subsection.
7 The OUSF Beneficiary must provide evidence of such exemption as part
8 of the funding request.

9 3. The credit amount for the provision of Special Universal
10 Services as provided for in subsection A of this section shall be
11 determined as provided for in this subsection.

12 4. An eligible provider shall be entitled to reimbursement from
13 the Oklahoma Universal Service Fund (OUSF) for providing Special
14 Universal Services as described in subsection A of this section. In
15 no case shall the reimbursement from the OUSF be made for an
16 Internet subscriber fee or charges incurred as a result of services
17 accessed via the Internet.

18 5. Oklahoma Universal Service Fund Beneficiaries shall conduct
19 a fair and open competitive bidding process to select the services
20 and carrier eligible for support. The competitive bidding process
21 shall meet the following standards:

22 a. the solicitation of bids shall clearly identify the
23 bandwidth range requested by the Oklahoma Universal
24 Service Fund Beneficiary or consortium,

1 b. the Oklahoma Universal Service Fund Beneficiary shall
2 not limit bidders based upon technology,

3 c. the bidding shall be open to all carriers authorized
4 to receive OUSF funding in the telephone exchange
5 where the Oklahoma Universal Service Fund Beneficiary
6 is located or where the members of the consortium are
7 located, and

8 d. the bidding shall not be structured in a manner to
9 exclude carriers eligible to receive OUSF funding in
10 the telephone exchange where the Oklahoma Universal
11 Services Fund Beneficiary is located.

12 6. For Special Universal Services that are competitively bid in
13 compliance with this act, the credit amount shall be not more than
14 twenty-five percent (25%) greater than the lowest cost reasonable
15 qualifying bid of the total prediscout amount of eligible services
16 plus installation charges, less federal funding support for the same
17 services including installation charges issued in a funding
18 commitment letter or similar approval document for the Federal
19 Universal Service Support Mechanism or successor program or programs
20 for the applicable funding year.

21 7. For purposes of this act, "lowest cost reasonable qualifying
22 bid" means a bid that:

- a. represents the lowest total cost proposal including monthly recurring and nonrecurring charges for eligible services,
- b. is reasonable to meet the needs of the Oklahoma Universal Service Fund Beneficiary as listed in the request for bids,
- c. is submitted during the same competitive bidding period as the awarded bid,
- d. is for a bandwidth within the range requested for bid and selected by the Oklahoma Universal Service Fund Beneficiary,
- e. is for the same contract term as the bid that was selected by the Oklahoma Universal Service Fund Beneficiary,
- f. meets the requirements specified in the request for bid by the Oklahoma Universal Service Fund Beneficiary, and
- g. was the result of a fair and open competitive bidding process as defined in this act.

8. If a long-term contract includes change clauses for changes in sites or services, the Oklahoma Universal Service Fund Beneficiary shall not be required to conduct a new competitive bid during the life of the original contract, which may not exceed five (5) years.

1 9. For eligible services associated with an Oklahoma Universal
2 Service Fund Beneficiary that does not competitively bid in
3 compliance with this act, the credit amount shall be determined at
4 the discretion of the Administrator.

5 C. 1. Special Universal Services shall not be sold, resold or
6 transferred in consideration for money or any other thing of value.

7 2. The OUSF shall not fund more than one eligible provider for
8 the same service at the same location for the same time period,
9 except during a transition period from one eligible provider to
10 another. Funding during a transition period shall not exceed thirty
11 (30) days.

12 D. The Administrator shall have the authority to investigate
13 each request for OUSF funding for Special Universal Services in
14 order to ensure that the OUSF pays only for the Special Universal
15 Services authorized in this section. The Administrator shall deny
16 requests for OUSF funding in excess of the credit amounts authorized
17 in subsection B of this section unless good cause is shown.

18 E. The Corporation Commission shall have authority to
19 investigate and modify or reject in whole or part a Special
20 Universal Service request under subsection A of this section if the
21 request does not meet the specified criteria, if the Corporation
22 Commission's investigation determines that the entity has not
23 provided sufficient documentation for the requested services, or if
24

1 the Corporation Commission determines that granting the request is
2 not in the public interest due to fraud, waste or abuse.

3 F. 1. The Special Universal Services preapproval and
4 reimbursement procedures as set forth in this subsection shall be
5 effective and shall apply for each applicable funding year beginning
6 July 1, 2017.

7 2. The Oklahoma Universal Service Fund Beneficiary
8 administrative preapproval submission process shall be as follows:

9 a. the Administrator shall establish an administrative
10 approval process to be initiated by the Oklahoma
11 Universal Service Fund Beneficiary in a timely fashion
12 for the purpose of determining eligible services and
13 credit amounts for the upcoming funding year. The
14 administrative preapproval submission process shall
15 include all necessary forms and instructions,
16 hereinafter referred to as the "OUSF administrative
17 preapproval request". The Administrator shall
18 determine the form for the OUSF administrative
19 preapproval requests. The form shall be posted on the
20 Commission website no later than June 30 of each year
21 to become effective for any OUSF administrative
22 preapproval requests submitted after August 31 of that
23 year. Any party may file an objection to the form
24 with the Commission within fifteen (15) days of

1 posting. The Commission shall issue a final order on
2 the objection to the form within thirty (30) days,
3 b. the Administrator shall issue an approval funding
4 letter to the Oklahoma Universal Service Fund
5 Beneficiary and the eligible provider within ninety
6 (90) days of receipt of a properly completed OUSF
7 administrative preapproval request. Failure by the
8 Administrator to issue an approval funding letter
9 within the ninety-day period means the OUSF
10 administrative preapproval request submitted by the
11 Oklahoma Universal Service Fund Beneficiary is
12 approved as submitted and the subsequent request for
13 reimbursement submitted by the eligible provider which
14 is consistent with the information submitted in the
15 OUSF administrative preapproval request shall be
16 approved as submitted,
17 c. the approval funding letter shall inform the Oklahoma
18 Universal Service Fund Beneficiary of the preapproved
19 services and associated credit amount for the
20 applicable funding year. The amount of OUSF funding
21 preapproved under this subsection may be subject to
22 adjustments based on the amount of support received
23 from other sources, if any, and adjustments to pricing
24

1 that may occur between the time of preapproval and
2 installation of service,

3 d. any OUSF administrative preapproval request shall be
4 submitted to the Administrator in the format outlined
5 in instructions posted on the Commission website. The
6 OUSF administrative preapproval request shall include
7 but not be limited to the following:

8 (1) a Special Universal Services request form as
9 posted on the Commission website no later than
10 June 30 of each year for requests made after
11 August 31 of that year,

12 (2) a Federal Universal Service Support Mechanism or
13 successor program or programs form used to
14 request federal funding support for the
15 applicable funding year,

16 (3) a federal funding commitment letter for the
17 applicable funding year, if issued, and

18 (4) competitive bidding documentation for the
19 relevant funding year,

20 e. issuance of an OUSF approval funding letter by the
21 Administrator shall occur without a Commission order,

22 f. OUSF administrative preapproval requests not submitted
23 by June 30 prior to the applicable funding year shall
24

1 be processed by the Administrator on a first-in-first-
2 out basis, and

- 3 g. after a preapproval funding letter has been issued, an
4 OUSF Beneficiary may submit a new administrative
5 preapproval request to provide corrections or
6 additional information per program rules issued by the
7 Commission.

8 3. The eligible provider reimbursement process shall be as
9 follows:

- 10 a. requests for reimbursement shall be submitted per
11 procedures as set forth in subsection D of Section
12 139.106 of ~~Title 17 of the Oklahoma Statutes~~ this
13 title,
- 14 b. the Administrator shall post the monthly payout report
15 to the Commission website,
- 16 c. funding for eligible services, including federal
17 funding, shall not exceed actual eligible expenses,
- 18 d. any change in cost of eligible services during the
19 funding year shall be reported by the eligible
20 provider to the OUSF and:
- 21 (1) all decreases in cost shall be deemed approved
22 until the next eligible bidding period and all
23 cost savings shall be properly allocated to the
24

1 OUSF and the Oklahoma Universal Service Fund
2 Beneficiary, and

3 (2) increases in cost shall be reviewed for approval
4 as provided for in Commission rules, and

5 e. issuance of a determination by the Administrator shall
6 not require a Commission order.

7 SECTION 5. AMENDATORY Section 2, Chapter 324, O.S.L.
8 2016 (63 O.S. Supp. 2016, Section 2862), is amended to read as
9 follows:

10 Section 2862. As used in the Oklahoma 9-1-1 Management
11 Authority Act:

12 1. "Authority" means the Oklahoma 9-1-1 Management Authority
13 created in Section ~~3~~ 2863 of this ~~act~~ title;

14 2. "Combined fee" means the sum of the prepaid wireless 9-1-1
15 fee and the Oklahoma Universal Service Fund charge;

16 3. "Governing body" means the board of county commissioners of
17 a county, the city council, tribal authority or other governing body
18 of a municipality, or a combination of such boards, councils or
19 other municipal governing bodies including county or municipal
20 beneficiary public trusts, or other public trusts which shall have
21 an administering board. A governing body made up of two or more
22 governmental entities shall have a board consisting of not less than
23 three members and shall consist of at least one member representing
24 each governmental entity, appointed by the governing body of each

1 participating governmental entity, as set forth in the agreement
2 forming the board. The members of the board shall serve for terms
3 of not more than three (3) years as set forth in the agreement.
4 Members may be appointed to serve more than one term. The names of
5 the members of the governing body board and the appointing authority
6 of each member shall be maintained in the office of the county clerk
7 in the county or counties in which the system operates, along with
8 copies of the agreement forming the board and any amendments to that
9 agreement;

10 ~~3.~~ 4. "Next-generation 9-1-1" or "NG9-1-1" means an:

- 11 a. IP-based system comprised of hardware, software, data,
12 and operational policies and procedures that:
- 13 (1) provides standardized interfaces from emergency
14 call and message services to support emergency
15 communications,
 - 16 (2) processes all types of emergency calls, including
17 voice, text, data and multimedia information,
 - 18 (3) acquires and integrates additional emergency call
19 data useful to call routing and handling,
 - 20 (4) delivers the emergency calls, messages and data
21 to the appropriate public safety answering point
22 and other appropriate emergency entities,
 - 23 (5) supports data or video communications needs for
24 coordinated incident response and management, and

1 (6) provides broadband service to public safety
2 answering points or other first responder
3 entities, or

4 b. IP-based system comprised of hardware, software, data
5 and operational policies and procedures that conforms
6 with subsequent amendments made to the definition of
7 Next Generation 9-1-1 services in Public Law 112-96;

8 ~~4.~~ 5. "9-1-1 emergency telephone service" means any telephone
9 system whereby telephone subscribers may utilize a three-digit
10 number (9-1-1) for reporting an emergency to the appropriate public
11 agency providing law enforcement, fire, medical or other emergency
12 services, including ancillary communications systems and personnel
13 necessary to pass the reported emergency to the appropriate
14 emergency service and which the wireless service provider is
15 required to provide pursuant to the Federal Communications
16 Commission Order 94-102 (961 Federal Register 40348);

17 ~~5.~~ 6. "9-1-1 wireless telephone fee" means the fee imposed in
18 Section ~~5~~ 2865 of this ~~act~~ title to finance the installation and
19 operation of emergency 9-1-1 services and any necessary equipment;

20 ~~6.~~ 7. "Oklahoma Universal Service Fund charge" means the charge
21 imposed under Section 139.107 of Title 17 of the Oklahoma Statutes;

22 8. "Place of primary use" means the street address
23 representative of where the use of the mobile telecommunications
24 service of the customer primarily occurs, which shall be the

1 residential street address or the primary business street address of
2 the customer and shall be within the licensed service area of the
3 home service provider in accordance with Section 55001 of Title 68
4 of the Oklahoma Statutes and the federal Mobile Telecommunications
5 Sourcing Act, P.L. No. 106-252, codified at 4 U.S.C. 116-126;

6 ~~7.~~ 9. "Prepaid wireless telecommunications service" means a
7 telecommunications wireless service that provides the right to
8 utilize mobile wireless service as well as other telecommunications
9 services including the download of digital products delivered
10 electronically, content and ancillary services, which are paid for
11 in advance and sold in predetermined units or dollars of which the
12 number declines with use in a known amount;

13 ~~8.~~ 10. "Proprietary information" means wireless service
14 provider or VoIP service provider, subscriber, market share, cost
15 and review information;

16 ~~9.~~ 11. "Public agency" means any city, town, county, municipal
17 corporation, public district, public trust, substate planning
18 district, public authority or tribal authority located within this
19 state which provides or has authority to provide firefighting, law
20 enforcement, ambulance, emergency medical or other emergency
21 services;

22 ~~10.~~ 12. "Public safety answering point" or "PSAP" means an
23 entity responsible for receiving 9-1-1 calls and processing those
24 calls according to specific operational policy;

1 ~~11.~~ 13. "Wireless service provider" means a provider of
2 commercial mobile service under Section 332(d) of the
3 Telecommunications Act of 1996, 47 U.S.C., Section 151 et seq.,
4 Federal Communications Commission rules, and the Omnibus Budget
5 Reconciliation Act of 1993, Pub. L. No. 103-66, and includes a
6 provider of wireless two-way communication service, radio-telephone
7 communications related to cellular telephone service, network radio
8 access lines or the equivalent, and personal communication service.
9 The term does not include a provider of:

- 10 a. a service whose users do not have access to 9-1-1
11 service,
- 12 b. a communication channel used only for data
13 transmission, or
- 14 c. a wireless roaming service or other nonlocal radio
15 access line service;

16 ~~12.~~ 14. "Wireless telecommunications connection" means the ten-
17 digit access number assigned to a customer regardless of whether
18 more than one such number is aggregated for the purpose of billing a
19 service user; and

20 ~~13.~~ 15. "Voice over Internet Protocol (VoIP) provider" means a
21 provider of interconnected Voice over Internet Protocol service to
22 end users in the state, including resellers.

23
24

1 SECTION 6. AMENDATORY Section 5, Chapter 324, O.S.L.
2 2016 (63 O.S. Supp. 2016, Section 2865), is amended to read as
3 follows:

4 Section 2865. A. Beginning January 1, 2017, there shall be
5 imposed a 9-1-1 telephone fee as follows:

6 1. Seventy-five cents (\$0.75) monthly on each wireless
7 telephone connection and other communication device or service
8 connection with the ability to dial 9-1-1 for emergency calls;

9 2. Seventy-five cents (\$0.75) monthly on each service that is
10 enabled by Voice over Internet Protocol (VoIP) or Internet Protocol
11 (IP) with the ability to dial 9-1-1 for emergency calls; and

12 3. Seventy-five cents (\$0.75) on each prepaid wireless retail
13 transaction occurring in this state.

14 A. The seventy-five cent (\$0.75) fee on each prepaid wireless
15 retail transaction occurring in this state is to be combined with an
16 Oklahoma Universal Service Fund charge applicable to prepaid
17 wireless determined as provided under subsection E of Section
18 139.107 of Title 17 of the Oklahoma Statutes.

19 B. 1. For purposes of paragraph 3 of subsection A of this
20 section, a retail transaction that is effected in person by a
21 consumer at a business location of the seller shall be treated as
22 occurring in this state if that business location is in this state.
23 Any other retail transaction shall be sourced as provided in
24 paragraphs 2 through 5 of this subsection as applicable.

1 2. When the retail transaction does not occur at a business
2 location of the seller, the retail transaction shall be sourced to
3 the location where receipt by the consumer, or the consumer's donee,
4 designated as such by the consumer, occurs, including the location
5 indicated by instructions for delivery to the consumer or donee,
6 known to the seller.

7 3. When the provisions of paragraph 2 of this subsection do not
8 apply, the sale shall be sourced to the location indicated by an
9 address for the consumer that is available from the business records
10 of the seller that are maintained in the ordinary course of the
11 seller's business when use of this address does not constitute bad
12 faith.

13 4. When the provisions of paragraphs 2 and 3 of this subsection
14 do not apply, the sale shall be sourced to the location indicated by
15 an address for the consumer obtained during the consummation of the
16 sale, including the address of a consumer's payment instrument, if
17 no other address is available, when use of this address does not
18 constitute bad faith.

19 5. When none of the previous rules of paragraphs 1, 2, 3 and 4
20 of this subsection apply, including the circumstance in which the
21 seller is without sufficient information to apply the previous
22 rules, then the location shall be determined by the address from
23 which the service was provided, disregarding for these purposes any
24 location that merely provided the digital transfer of the product

1 sold. If the seller knows the mobile telephone number, the location
2 will be that which is associated with the mobile telephone number.

3 C. The fees authorized by subsection A of this section shall
4 not be assessed on landline phone customers.

5 D. The fees imposed in subsection A of this section shall
6 replace any 9-1-1 wireless telephone fees previously adopted by any
7 county pursuant to Section 2843.1 of Title 63 of the Oklahoma
8 Statutes, or 9-1-1 VoIP emergency service fees adopted by a
9 governing body pursuant to Section 2853 of Title 63 of the Oklahoma
10 Statutes, or fees on prepaid wireless retail transactions pursuant
11 to Section 2843.2 of Title 63 of the Oklahoma Statutes. Fees
12 collected and transferred pursuant to those sections shall remain in
13 effect through December 31, 2016.

14 E. From each seventy-five-cent fee assessed and collected
15 pursuant to subsection A of this section, five cents (\$0.05) shall
16 be deposited into the Oklahoma 9-1-1 Management Authority Revolving
17 Fund created pursuant to Section ~~9~~ 2869 of this ~~act~~ title. Funds
18 accumulating in this revolving fund shall be used to fund the salary
19 of the Oklahoma 9-1-1 Coordinator and any administrative staff,
20 operations of the Authority and any costs associated with the
21 administration of the Oklahoma 9-1-1 Management Authority Act within
22 the Oklahoma Department of Emergency Management, and for grants
23 approved by the Authority for purposes as authorized in ~~this act~~
24 Section 2861 et seq. of this title.

1 SECTION 7. AMENDATORY Section 6, Chapter 324, O.S.L.
2 2016 (63 O.S. Supp. 2016, Section 2866), is amended to read as
3 follows:

4 Section 2866. A. 9-1-1 telephone fees authorized and collected
5 by wireless service providers and Voice over Internet Protocol
6 (VoIP) providers, pursuant to paragraphs 1 and 2 of subsection A of
7 Section ~~5~~ 2865 of this ~~act~~ title, from each of their end users
8 residing in this state shall be paid to the Oklahoma Tax Commission
9 no later than the twentieth day of the month succeeding the month of
10 collection.

11 B. From the total fees collected pursuant to paragraphs 1 and 2
12 of subsection A of Section ~~5~~ 2865 of this ~~act~~ title, one percent
13 (1%) shall be retained by the wireless service provider or VoIP
14 provider, and one percent (1%) shall be retained by the Tax
15 Commission as reimbursement for the direct cost of administering the
16 collection and remittance of the fees.

17 C. Every billed service subscriber shall be liable for any 9-1-
18 1 wireless telephone fee imposed pursuant to the Oklahoma 9-1-1
19 Management Authority Act until the fee has been paid to the wireless
20 service provider.

21 D. Fees imposed pursuant to the Oklahoma 9-1-1 Management
22 Authority Act which are required to be collected by the wireless
23 service provider or VoIP provider may be added to and shall be
24 stated separately in any billings to the service subscriber.

1 E. The wireless service provider or VoIP provider shall have no
2 obligation to take any legal action to enforce the collection of any
3 9-1-1 wireless telephone fee imposed pursuant to the provisions of
4 the Oklahoma 9-1-1 Management Authority Act. Should any service
5 subscriber tender a payment insufficient to satisfy all charges,
6 tariffs, fees and taxes for wireless telephone or VoIP service, the
7 amount tendered shall be credited to the 9-1-1 wireless telephone
8 fee in the same manner as other taxes and fees.

9 F. Any 9-1-1 fee imposed pursuant to the provisions of the
10 Oklahoma 9-1-1 Management Authority Act shall be collected insofar
11 as practicable at the same time as, and along with, the charges for
12 wireless telephone or VoIP service in accordance with the regular
13 billing practice of the provider.

14 G. Nothing in the Oklahoma 9-1-1 Management Authority Act shall
15 be construed to limit the ability of a wireless service provider or
16 VoIP provider from recovering its costs associated with designing,
17 developing, deploying and maintaining enhanced 9-1-1 service
18 directly from the service subscribers of the provider, whether the
19 costs are itemized on the bill of the service subscriber as a
20 surcharge or by any other lawful means.

21 H. The wireless service provider or VoIP provider shall
22 maintain records of the amount of 9-1-1 telephone fees collected in
23 accordance with the provisions of the Oklahoma 9-1-1 Management
24 Authority Act for a period of three (3) years from the time the fee

1 is collected. The State Auditor and Inspector, the Oklahoma 9-1-1
2 Management Authority or any affected public agency may require an
3 annual audit of the books and records of the wireless service
4 provider or VoIP provider concerning the collection and remittance
5 of fees authorized by ~~this act~~ Section 2861 et seq. of this title.
6 Auditors shall have access to all information used by the wireless
7 service provider or VoIP provider to calculate and remit the 9-1-1
8 telephone fee. Audit expenses shall be reimbursable pursuant to
9 procedures established by the Oklahoma 9-1-1 Management Authority if
10 the audit is approved by the Authority.

11 I. The wireless service provider or VoIP provider shall provide
12 to the Oklahoma 9-1-1 Management Authority an annual census showing
13 the primary place of use of its subscribers located by county and
14 either a municipality or unincorporated area. The census shall
15 contain all subscribers as of December 31 of each year, and shall be
16 provided to the Authority no later than February 1 of each year.

17 J. All proprietary information provided by a wireless service
18 provider or VoIP provider to the Authority shall not be subject to
19 disclosure to the public or any other party.

20 K. Within thirty (30) days of receipt, the Oklahoma Tax
21 Commission shall pay available fees remitted pursuant to paragraphs
22 1 and 2 of subsection A of Section 5 2865 of this act title to the
23 governing bodies that the Oklahoma 9-1-1 Management Authority has
24 certified in accordance with Section 4 2864 of this act title as

1 eligible to receive funds. The share to be paid to or escrowed for
2 each governing body shall be determined by dividing the population
3 of the governing body by the total population of the state using the
4 latest Federal Decennial Census estimates.

5 SECTION 8. AMENDATORY Section 7, Chapter 324, O.S.L.
6 2016 (63 O.S. Supp. 2016, Section 2867), is amended to read as
7 follows:

8 Section 2867. A. ~~Prepaid 9-1-1 wireless transaction fees~~ The
9 Combined Prepaid Wireless 9-1-1 telephone fee and the Oklahoma
10 Universal Service Fund Charge authorized and collected pursuant to
11 paragraph 3 of subsection A of Section ~~5~~ 2865 of this ~~act~~ title from
12 retailers shall be paid to the Oklahoma Tax Commission under
13 procedures established by the Tax Commission that substantially
14 coincide with the registration and payment procedures that apply
15 under the Oklahoma Sales Tax Code and as directed by the Oklahoma 9-
16 1-1 Management Authority. The audit and appeal procedures,
17 including limitations period, applicable to the Oklahoma Sales Tax
18 Code shall apply to prepaid 9-1-1 wireless telephone fees.

19 B. From the total fees collected pursuant to paragraph 3 of
20 subsection A of Section ~~5~~ 2865 of this ~~act~~ title, three percent (3%)
21 shall be retained by the seller and one percent (1%) shall be
22 retained by the Tax Commission as reimbursement for the direct cost
23 of administering the collection and remittance of such fees.

24

1 C. ~~The prepaid 9-1-1 wireless transaction fee shall be~~
2 ~~collected by the retailer from the consumer for each retail~~
3 ~~transaction occurring in this state. The amount of the prepaid 9-1-~~
4 ~~1 wireless fee shall either be separately stated on the invoice,~~
5 ~~receipt or similar document that is provided to the consumer by the~~
6 ~~seller, or otherwise disclosed to the consumer. Within thirty (30)~~
7 ~~days of receipt, the Tax Commission shall pay the proportion of the~~
8 ~~combined fee representing the OUSF charge to the Corporation~~
9 ~~Commission and shall pay the proportion of the combined fee~~
10 ~~representing the 9-1-1 fees to the governing bodies that the~~
11 ~~Oklahoma 9-1-1 Management Authority has certified in accordance with~~
12 ~~Section 2864 of this title as eligible to receive funds.~~

13 D. The 9-1-1 telephone fee and the Oklahoma Universal Service
14 Fund charge shall be combined into one fee to be collected as a
15 single amount by the retailer from which the consumer who purchases
16 prepaid wireless telecommunications service with respect to each
17 retail transaction occurring in this state. The amount of the
18 combined fee shall either be separately stated on an invoice,
19 receipt, or similar document that is provided to the consumer by the
20 seller, or otherwise disclosed to the consumer.

21 E. The prepaid 9-1-1 wireless telephone fee and Oklahoma
22 Universal Service Fund charge ~~is~~ are the liability of the consumer
23 and not of the seller or of any provider, except that the seller
24 shall be liable to remit all ~~prepaid 9-1-1 wireless telephone fees~~

1 that the seller collects as provided in this section, including all
2 charges that the seller is deemed to collect where the amount of the
3 combined fee has not been separately stated on an invoice, receipt
4 or other similar document.

5 ~~E.~~ F. If the amount of the prepaid 9-1-1 wireless telephone fee
6 is separately stated on the invoice, receipt or similar document,
7 the prepaid 9-1-1 wireless ~~telephone~~ combined fee shall not be
8 included in the base for measuring any tax, fee, surcharge or other
9 charge that is imposed by the state, any political subdivision of
10 this state or any intergovernmental agency.

11 SECTION 9. This act shall become effective November 1, 2017.

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