

**FILED**  
DEC 19 2012

**BEFORE THE CORPORATION COMMISSION OF OKLAHOMA**

COURT CLERK'S OFFICE - OKC  
CORPORATION COMMISSION  
OF OKLAHOMA

IN THE MATTER OF A PERMANENT  
RULEMAKING OF THE  
OKLAHOMA CORPORATION  
COMMISSION AMENDING  
OAC 165:55, TELECOMMUNICATIONS  
SERVICES

**CAUSE NO RM. 201200012**

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**NOTICE OF PROPOSED RULEMAKING**

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**NOTICE IS HEREBY GIVEN** that the Public Utility Division ("PUD") of the Oklahoma Corporation Commission ("Commission") recommends that the Commission amend the Telecommunications Services Rules that are set forth in the Oklahoma Administrative Code ("OAC") 165:55. The proposed changes will address issues that have arisen concerning Telecommunications Services and Wireless Eligible Telecommunications Carriers and update Subchapter 23 of the rules to, where appropriate, mirror changes that became effective July 12, 2012, for carriers other than Wireless Carriers.

The proposed changes to OAC 165:55 are as follows:

OAC 165:55-1-4 would be amended to add the definition of "Filed," "Internet Subscriber Fee," and "Voice over Internet Protocol" and to revise the definition of "Telecommunications."

OAC 165:55-3-1 would be amended to add the requirement for a Certificate of Convenience and Necessity ("CCN") prior to receiving funding from the Oklahoma Universal Service Fund. This rule also would be amended to ensure that written notice of filing for a CCN should be provided to each governmental body that operates an E911 Public Safety Answering Point ("E911 PSAP") in the proposed service territory of the telecommunication service provider.

OAC 165:55-3-22 would be amended to address Federal Communications Commission ("FCC") regulations adopting new requirements for Internet telephone providers regarding E911 obligations.

OAC 165:55-5-11 would be amended to ensure that notices of proposed tariffs affecting E911 PSAPs shall also be provided to each E911 PSAP in the service territory of the provider. This rule also would be amended to ensure parties to VoIP interconnection transactions should provide the same notice to E911 PSAPs that are proposed for Competitive Local Exchange Carrier ("CLEC") interconnection transactions. Further, this rule would be amended to ensure each governmental entity operating an E911 PSAP that wishes to receive notice of CLEC and VoIP Service Provider ("VSP") interconnection agreement approvals shall register its contact persons with the Commission.

OAC 165:55-5-12 which is related to the reclassification of exchanges would be revoked.

OAC 165:55-9-14 would be amended to reduce the level of the trigger that results in a change in the level of the interest rate being paid by all telecommunication providers on customer deposits.

OAC 165:55-13-20 would be amended to add an "S" to the acronym for National Electrical Safety Code.

OAC 165:55-17-7 would be amended to ensure that each E911 PSAP within the territory of the service area affected by the proposed Agreement has notice of the Agreement.

OAC 165:55-23-3 would be amended to allow a wireless eligible telecommunications carrier the flexibility to either maintain a current informational tariff containing all its terms and conditions and Lifeline services with the Commission or to post the same on the provider's website. This provides for consistent treatment of wireless and wireline providers. This rule also would be amended to ensure that all Lifeline plans, and modifications thereto, are brought before the Commission to obtain an order finding the new plan or revision(s) is in the public interest prior to it being offered to the public, in view of the associated federal and state support.

OAC 165:55-23-7 would be amended to require bills to comply with the Federal Truth-in-Billing requirements.

OAC 165:55-23-11 would be amended to identify the Voice Telephony Services supported by the federal low income support mechanisms and to ensure that every Lifeline plan meets minimum public interest standards prior to being offered to the public.

OAC 165:55-23-15 would be amended to establish minimum standards for the marketing and provisioning of Lifeline services to customers in Oklahoma, thereby, avoiding waste, fraud, and abuse.

OAC 165:55-23-17 would be amended to reflect changes in federal regulations that limit Link-Up support to tribal land and to identify the level of Link-Up support that may be applied to a customer's bill.

OAC 165:55-23-52 would be amended to ensure that wireless carriers investigate service complaints adequately and provide adequate service to each wireless eligible telecommunications carrier's customers, which will help eliminate waste, fraud, and abuse of federal and Oklahoma funding.

PUD's intent is to keep this OAC 165:55 rulemaking narrowly tailored to the aforementioned rules, since this chapter was modified by rules that became effective July 12, 2012, and PUD believes the issues identified in that rulemaking are addressed in the above styled Notice of Proposed Rulemaking.

**NOTICE IS FURTHER GIVEN** that the Commission has jurisdiction to initiate this permanent rulemaking pursuant to the Oklahoma Administrative Procedures Act, 75 O.S. § 250 *et seq.*, 17 O.S. §139.101 *et seq.*, and Article IX, Section 18 of the Oklahoma Constitution.

**NOTICE IS FURTHER GIVEN** that PUD believes it is necessary to adopt permanent rules regarding telecommunications services and wireless eligible telecommunications carriers in order to be in compliance with the Federal requirements and to eliminate waste, fraud, and abuse in federal and state Universal Service programs. If permanent rules are adopted in this Cause by the Commission, the proposed rules shall be submitted to the Governor and the Oklahoma Legislature for approval as permanent rules.

**NOTICE IS FURTHER GIVEN** that the proposed rules will be available for public inspection at the Commission's Oklahoma City Court Clerk's Office. A copy of the proposed rules may be requested by phone at (405) 521-2352, email at [occcourtclerk@occemail.com](mailto:occcourtclerk@occemail.com) or by visit to the Commission's Oklahoma City Court Clerk's Office. The proposed rules are also accessible on the Commission's website at <http://www.occeweb.com> and may be downloaded at no cost to the end user.

**NOTICE IS FURTHER GIVEN** that the Rule Impact Statement pursuant to 75 O.S. § 303 (D) will be timely prepared and made available for public inspection in the Commission's Court Clerk's Office, First Floor, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105 no later than fifteen (15) days after the date of publication of this Notice of Proposed Rulemaking.

**NOTICE IS FURTHER GIVEN** that the Commission invites all interested persons to **submit comments regarding the proposed changes to the Rules on or before January 8, 2013**. The comments will be available for public inspection by call, email, or in-person request during regular business hours of the Court Clerk's Office, 8:00 a.m. to 4:30 p.m.

**NOTICE IS FURTHER GIVEN** that the Public Utility Division will have two **technical conferences on January 15, 2013, at 10:00 a.m. and February 7, 2013, at 10:00 a.m. in Courtroom 301**, Third Floor, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105. All parties interested in the proposed rules are urged and welcome to attend. One or more of the Commissioners may be present at the technical conferences and may participate in the dialogue with the rulemaking participants regarding the issues of the proposed rulemaking.

Pursuant to 75 O.S. § 303, business entities are requested, if the proposed rules affect such entities, to provide to the Commission in writing, the increase in the level of direct costs and indirect costs or other costs, in dollar amounts, expected to be incurred by the entity due to compliance with the proposed rules.

The PUD has made a determination that some of the proposed rules may have an adverse economic effect on small businesses. Pursuant to 75 O.S. § 501, *et seq.*, the Commission will provide the Small Business Regulatory Review Committee with the Notice of Proposed Rulemaking, the Proposed Rules and the Rule Impact Statement.

**NOTICE IS FURTHER GIVEN** that the **Commission *en banc*** shall consider the permanent adoption of the proposed rules at a public hearing at 9:30 a.m. on **February 14, 2013**, in Courtroom 301, Third Floor, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma, 73105.

**NOTICE IS FURTHER GIVEN** that further information and inquiries regarding this proposed rulemaking should be directed to Kimberly C. Prigmore, Assistant General Counsel, by telephone (405) 522-1010, e-mail [k.prigmore@occemail.com](mailto:k.prigmore@occemail.com), facsimile (405) 521-4150, or at Room 400, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, or Post Office Box 52000, Oklahoma City, Oklahoma 73152-2000.

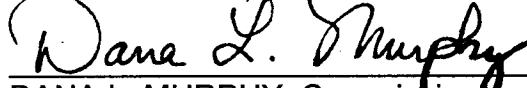
CORPORATION COMMISSION OF OKLAHOMA



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PATRICE DOUGLAS, Chairman

DISSENTING OPINION ATTACHED

BOB ANTHONY, Vice Chairman

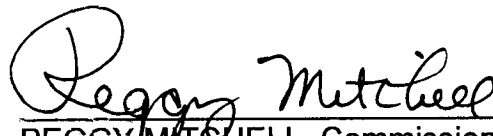


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DANA L. MURPHY, Commissioner

CERTIFICATION

DONE and PERFORMED this 19 day of December 2012 BY ORDER OF THE COMMISSION:

[seal]



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PEGGY MITCHELL, Commission Secretary

Cause No. PUD 201200186  
Cause No. RM 201200012  
Cause No. RM 201200013

December 19, 2012

### **DISSENTING OPINION OF COMMISSIONER BOB ANTHONY**

Respectfully, I dissent from Commission actions taken today in Cause No. PUD 201200186, Cause No. RM 201200012 and Cause No. RM 201200013.

Collectively and/or individually these public utility matters represent expanded regulatory scope and activity. Perhaps for the first time in over 100 years of regulatory oversight, this agency now apparently is in the process of capturing customer-specific data on hundreds of thousands of Oklahoma households, including names, addresses, telephone numbers, dates of birth, poverty status, and at least the last four digits of Social Security numbers. This commissioner senses an ill-defined effort by staff to conduct an "investigation," and I question whether the agency has the resources and capability to maintain personal information of citizens in a confidential and secure manner. Furthermore, I dissent because staff is probably correct when it has already determined that the proposed new rules may have an adverse economic effect on small businesses.

The Federal government has set forth an expensive mechanism of charging telephone customers billions of dollars to finance poorly-designed subsidy programs. Statements by our staff indicate the agency has already facilitated payments involving waste, fraud and abuse.

Furthermore, the word "Internet" occurs today despite O.S. Title 17, Chapter 6, Section 139.110(A) providing, "The Oklahoma Corporation Commission shall not, by entering any order, adopting any rule, or otherwise taking any agency action, impose any regulation upon a provider of high speed Internet access service or broadband service in its provision of such service, regardless of technology or medium used to provide such service."

Bob Anthony  
Commissioner