

**TITLE 165. CORPORATION COMMISSION
CHAPTER 59. OKLAHOMA UNIVERSAL SERVICE AND OKLAHOMA LIFELINE**

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Chapter 59. Oklahoma Universal Service and Oklahoma Lifeline [AMENDED]

AUTHORITY:

Corporation Commission; Article IX, Section 18 of the Oklahoma Constitution, 17 O.S. Sections 137.3, and 139.101 *et seq.*

COMMENT PERIOD:

May 19, 2016 through June 29, 2016

PUBLIC HEARING:

June 8, 2016, June 28, 2016 and June 30, 2016

ADOPTION:

June 30, 2016

EFFECTIVE:

Immediately upon Governor's approval.

EXPIRATION:

Effective through September 14, 2017, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated standards:

1. Federal Communications Commission, August 2010, OBI Technical Paper No. 5, "Health Care Broadband in America: Early Analysis and a Path Forward."
2. State Educational Technology Directors Association, "The Broadband Imperative: Recommendations to Address K-12 Education Infrastructure Needs."
3. Federal Communications Commission, FCC 14-99, Adopted July 11, 2014, "Report and Order and Further Notice of Proposed Rulemaking."

Incorporating Rules:

165:59-7-6(c); 165:59-7-8(c); 165:59-7-8(e).

Availability:

8:00 a.m. to 5:00 p.m., Monday through Friday, Corporation Commission, Jim Thorpe Building, 2101 North Lincoln Boulevard, Oklahoma City, OK 73105.

FINDING OF EMERGENCY:

These rules are needed on an emergency basis due to HB 2616 being adopted by the Legislature and signed by the Governor on May 9, 2016. HB 2616 provided significant changes to Title 17, Sections 137.3 and 139.101 to 139.109, and adopted Title 17, Section 139.109.1, and these emergency rules are necessary to provide a process to implement those statutory changes.

ANALYSIS:

The purpose of the proposed emergency rules is to address changes to Title 17, Sections 137.3, 139.101 to 139.109, and the adoption of Title 17, Section 139.109.1.

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The proposed changes include but are not limited to: independent auditing procedures, the addition of a preapproval process, modifying the process for requests for funding and requests for reconsideration, clarifying the requirements to seek alternative funding, clarifying eligibility of funding for equipment, modifying the services that are deemed to be Special Universal Services, adding a competitive bidding process, adding definitions, and removing definitions listed in the statute; all as the result of HB 2616 being adopted by the Legislature and signed by the Governor.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):

SUBCHAPTER 1. GENERAL PROVISIONS

165:59-1-1. Purpose and title

(a) This Chapter establishes the Oklahoma Corporation Commission Rules and Regulations implementing the Oklahoma Telecommunications Act of 1997 (hereinafter referred to as the "Oklahoma Telecommunications Act"). This Chapter shall be cited as the Oklahoma Universal Service and Oklahoma Lifeline Rules.

(b) The purpose of this Chapter is to establish such rules pertaining to Universal Services and the Oklahoma Lifeline Service Program as are necessary and appropriate to implement the Oklahoma Telecommunications Act.

(c) ~~This Chapter describes:~~

- ~~(1) The services supported by the Oklahoma Universal Service Fund ("OUSF") and the Oklahoma Lifeline Fund ("OLF");~~
- ~~(2) Who shall make contributions to the OUSF and the OLF, and the methodology for calculating those contributions;~~
- ~~(3) The eligibility criteria to receive OUSF and OLF funding; and,~~
- ~~(4) The procedures for requesting, calculating and distributing OUSF and OLF funding.~~

(d) This Chapter also establishes the guidelines procedures for administration of the OUSF and the OLF.

165:59-1-2. Jurisdiction

The Oklahoma Corporation Commission has jurisdiction to enact this Chapter by virtue of Article IX § 18 of the Constitution of the State of Oklahoma, the Oklahoma Telecommunications Act, and the Federal Telecommunications Act of 1996. The Commission has the authority to assess a charge upon all telecommunications carriers and contributing providers, in conformance with federal and state law to support the objectives for Oklahoma Universal Services and Oklahoma Lifeline Service.

165:59-1-3. Application of rules

- (a) This Chapter shall be read in context with any applicable:
 - (1) Federal law and/or regulation;
 - (2) State law and/or regulation; and,
 - (3) Commission order and/or rule.
- (b) This Chapter shall be applicable to all eligible local exchange telecommunications service providers, eligible providers, and contributing providers. ~~carriers.~~
- (c) No person or corporation not otherwise a provider of telecommunications services shall be deemed such solely because of the manufacture, distribution, installation, or maintenance of end-user premises communication equipment and accessories.

165:59-1-4. Definitions

~~The following words and terms, when used in this Chapter, shall have the same meaning as defined in the Oklahoma Telecommunications Act, provided the words and terms, which are not defined in the Oklahoma Telecommunications Act, shall have the following meaning, unless the context clearly indicates otherwise: In addition to terms defined in The Oklahoma Telecommunications Act, 17 O.S. §§ 139.101, et seq., the following words and terms, when used in this Chapter shall have the following meaning, unless the context clearly indicates otherwise:~~

~~"Administrator" or "OUSF Administrator" or "OLF Administrator" means the same as Administrator, as defined in the Oklahoma Telecommunications Act. person(s) or entity(ies) responsible for administering the Oklahoma Universal Service Fund and/or the Oklahoma Lifeline Fund.~~

~~"ALJ" means Administrative Law Judge.~~

~~"Assessed Revenues" means as that term is defined in 17 O.S. § 139.107(A).~~

~~"Bed" is a patient care bed that is regularly maintained, staffed on a 24-hours basis, and immediately available for the care of patients.~~

~~"Bona fide request" means a written request delivered to a telecommunications carrier requesting services provided for in this Chapter.~~

~~"Carrier of Last Resort" means a telecommunications service provider as designated by the Commission pursuant to OAC 165:55-17-29 165:55.~~

~~"Commercial mobile radio service provider" means a carrier who provides wireless telecommunications services.~~

~~"Customer" or "Subscriber" means any person, firm, partnership, cooperative corporation, corporation or lawful entity that receives telecommunications services.~~

~~"Eligible healthcare entity" means a not for profit hospital; county health department; city-county health department; not for profit mental health and substance abuse facility as defined in this Section; and federally qualified health center in Oklahoma. Eligible healthcare entity also includes telemedicine services provided by the Oklahoma Department of Corrections at facilities identified in 57 O.S. § 509.~~

~~"Eligible local exchange telecommunications service provider" means any incumbent local exchange telecommunications service provider, its successors and assigns, which owned, maintained and provided facilities for universal service within a local exchange area on January 1, 1996, and any provider of telecommunications~~

service that has been determined to be an eligible local exchange telecommunications service provider pursuant to the Oklahoma Telecommunications Act.

~~"Eligible Telecommunications Carrier" ("ETC") means a common carrier designated by the Commission pursuant to OAC 165:55-23-2, and 47 U.S.C. §§ 254 and 214(e).~~

~~"Enhanced service provider" means a provider of enhanced service.~~

~~"FCC" means the Federal Communications Commission.~~

~~"Federally Qualified Health Center ("FQHC")" means an entity which~~

~~(A) is receiving a grant under section 330 of the Public Health Service Act (PHS) [42 U.S.C. 254b], or is receiving funding from such a grant under a contract with the recipient of such a grant and meets the requirements to receive a grant under section 330 of such Act [42 U.S.C. 254b]; or~~

~~(B) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, is determined by the Secretary of the Department of Health and Human Services ("HHS") to meet the requirements for receiving such a grant; or~~

~~(C) was treated by the Secretary, for purposes of part B of Section 330, as a comprehensive Federally funded health center as of January 1, 1990; or~~

~~(D) is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act [25 U.S.C. 1651 et seq.].~~

~~"Free of Charge" means 100% discount off the amount of the tariffed rate or charge, recurring and nonrecurring, directly attributable to the telecommunications line or wireless connection, used to provide the Special Universal Service. All applicable taxes and regulatory fees shall apply to the undiscounted rate or charge, but shall not be recoverable from the OUSF.~~

~~"High cost "High-cost area" means an area where actual costs exceed Commission- or Legislatively-authorized rates for Primary Universal Services.~~

~~"Interconnected Voice over Internet Protocol" or "VoIP" includes both fixed and nomadic versions of the service, with fixed Interconnected Voice over Internet Protocol service able to be used at only one location, and nomadic Interconnected Voice over Internet Protocol service able to be used at multiple locations. Interconnected Voice over Internet Protocol means a service that:~~

~~(A) enables real-time, two-way voice communications;~~

~~(B) requires a broadband connection from the user's location;~~

~~(C) requires Internet protocol-compatible customer premises equipment; and~~

~~(D) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.~~

~~"Internet Subscriber Fee" means any fee that is paid to a telecommunications service provider for internet service that is in addition to the access connection charge.~~

~~"Lifeline Service Program" means the federal and state program designed to keep low-income subscribers on the telecommunications network.~~

~~"Local exchange telecommunications service provider" or "telecommunications service provider" or "TSP" means a company holding a~~

~~certificate of convenience and necessity from the Commission to provide local exchange telecommunications service.~~

"Network" includes a telecommunications service provider's or telecommunication carrier's facilities used to originate and terminate traffic.

~~"Oklahoma Lifeline Fund" or "OLF" means the fund established and required to be implemented by the Commission pursuant to 17 O.S. § 139.105.~~

"Oklahoma Universal Services" means Primary Universal Service and Special Universal Services as defined herein in the Oklahoma Telecommunications Act.

"OneNet" means statewide Internet and technology provider operated by the Oklahoma State Regents for Higher Education for the purpose of meeting the mission critical technology needs of Oklahoma's education, research, healthcare and public service communities.

~~"Primary Universal Service" means an access line and dial tone provided to the premises of residential or business customers which provides access to other lines for the transmission of two-way switched or dedicated communication in the local calling area without additional, usage sensitive charges, including:~~

- ~~(A) A primary directory listing;~~
- ~~(B) Dual tone multifrequency signaling;~~
- ~~(C) Access to operator services;~~
- ~~(D) Access to directory assistance services;~~
- ~~(E) Access to telecommunications relay services for the hearing impaired;~~
- ~~(F) Access to nine one one service where provided by a local governmental authority or multijurisdictional authority; and,~~
- ~~(G) Access to interexchange long distance services.~~

~~"Public school building wherein classrooms are contained" means a building owned, leased or rented with public funds and accredited by the Oklahoma State Department of Education as a public school, which contains one or more classrooms utilized for student instruction for kindergarten pre-kindergarten through twelfth grade, and where internet access is utilized for student instruction.~~

"Reimbursement" means remuneration from the OUSF pursuant to ~~OAC 165:59-3-60~~ for Primary Universal Services and ~~OAC 165:59-7~~ for Special Universal Services. Reimbursement also means remuneration from the Oklahoma Lifeline Fund pursuant to OAC 165:59-9, for the Lifeline Service Program.

"Service territory" means a geographic area within which served by a telecommunications service provider has authority to provide telecommunications services.

~~"Special Universal Services" means:~~

- ~~(A) One incoming, toll-free phone number and up to a total of five access lines, provided free of charge to a not for profit hospital, public school building wherein classrooms are contained, public library, or county seat, in order to allow incoming, toll-free calls from any location within the geographic area of Oklahoma served by said entity.~~
- ~~(B) One access line, with the ability, to connect to an Internet service provider in accordance with 17 O.S. §139.109(C)(4), provided free of charge to a public school or a public library within the State, as set forth in 17 O.S. § 139.109 and Subchapter 7 herein.~~

~~(C) One telecommunications line or wireless connection, provided free of charge to an eligible healthcare entity within the State, sufficient for providing such telemedicine services as the healthcare entity is equipped to provide.~~

~~**"Special Construction Cost"** is the FCC's Category One eligible charge necessary to connect public schools and public libraries to broadband networks.~~

~~**"State"** means the State of Oklahoma.~~

~~**"Tariff"** means all or any part of the body of rates, tolls, charges, classifications, and terms and conditions of service relating to regulated services offered, the conditions under which such services are offered and the charges for services, which have been filed with the Commission and have become effective.~~

~~**"Telecommunications Act of 1996"** means the Federal legislation cited as 47 U.S.C. Section §§ 151 et. seq.~~

~~**"Telemedicine"** means the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, or exchange of medical education information by means of audio, video, or data communications. Telemedicine is not a consultation provided by telephone or facsimile machine, nor does it include administrative applications such as billing, contracted non-clinical services, or security systems.~~

~~**"USAC"** means the Universal Services Administrative Company.~~

~~**"U.S.C."** means United States Code.~~

~~**"Universal service area" or "service area"** means a geographic area established by the Commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the FCC and the Commission, after taking into account recommendations of a Federal State Joint Board instituted under 47 U.S.C. Section 410(c), establish a different definition of service area for such company.~~

~~**"Unregulated services"** means telecommunications services not regulated by the Commission.~~

165:59-1-7. Supremacy

This Chapter supersedes any conflicting Commission order that may be in effect on the effective date of this Chapter. If there is any conflict between this Chapter and the Oklahoma Telecommunications Act of 1997, the provisions of said Act shall supersede this Chapter to the extent of any conflict. If there is any conflict between said Act and the Federal Telecommunications Act of 1996, the provisions of the Federal Act shall prevail to the extent of any conflict.

SUBCHAPTER 3. OKLAHOMA UNIVERSAL SERVICE FUND

PART 1. OKLAHOMA UNIVERSAL SERVICES

165:59-3-1. Oklahoma Universal Services [REVOKED]

~~(a) Oklahoma Universal Services shall consist of Primary Universal Services and Special Universal Services.~~

~~(b) The Commission may, by rule, expand primary universal services to be supported by the OUSF after notice and hearing as provided in Section 139.106(J) of the Oklahoma Telecommunications Act.~~

PART 3. OKLAHOMA UNIVERSAL SERVICE FUND

165:59-3-11. How the Oklahoma Universal Service Fund shall be funded

The OUSF shall be funded consistent with 17 O.S. § 139.107.

165:59-3-13. Fund amount

(a) The Commission shall initiate a docket to adjust the funding level, as necessary, or on an annual basis, and ~~bill~~ assess the ~~telecommunications carriers~~ contributing providers required to contribute to the fund under ~~OAC 165:59-3-14~~ 17 O.S. § 139.107.

(b) Within thirty (30) days from the date of billing for contributions received from the OUSF Administrator or contracted agent, each ~~contributor~~ contributing provider shall submit payment to the OUSF Administrator, or, if designated, to the contracted agent.

165:59-3-14. Eligibility to receive OUSF funding

(a) The incumbent local exchange telecommunications service provider, its successors and assigns, which owned, maintained and provided facilities for universal service within a local exchange area on January 1, 1996, shall be the eligible local exchange telecommunications service provider eligible for OUSF funding within the local exchange area, except as otherwise provided for in the Telecommunications Act of 1997, 17 O.S. §§ 139.101, et seq.

(b) Upon request, and after notice and hearing, the Commission shall consider the designation of more than one eligible local exchange telecommunications service provider in a universal service area to receive funding from the OUSF under the Oklahoma Telecommunications Act of 1997 and ~~47 U.S.C. §214(e)~~.

(c) Where the incumbent local exchange telecommunications service provider receives or is eligible to receive monies from the OUSF, except as otherwise provided in 17 O.S. § 139.106, the Commission, after notice and hearing, may designate other local exchange telecommunications service providers to be eligible for the funding, provided:

(1) The other local exchange telecommunications service provider is certificated by the Commission to provide and offer the primary universal services supported by the OUSF to all customers in the universal service area designated by the Commission, using its own facilities, or a combination of its own facilities and the resale of the services or facilities of another;

(2) The other local exchange telecommunications service provider may only receive funding for the portion of the facilities that it owns, maintains, and uses for regulated services;

(3) The other local exchange telecommunications service provider shall not receive OUSF funding at a level higher than the level of funding the incumbent local exchange telecommunications service provider is eligible to receive for the same area if the incumbent local exchange telecommunications service provider is also providing service in the same area; provided, the cost of any cost studies required to

be performed shall be borne by the party requesting such studies, unless the party performing the study utilizes the study for its own benefit;

(4) The other local exchange telecommunications service provider advertises the availability and charges for services it provides through a medium of general distribution; and,

(5) It is determined by the Commission that the designation is in the public interest and the other local exchange telecommunications service provider is in compliance with all Commission rules for which a waiver has not been granted.

(d) For any area served by an incumbent local exchange telecommunications service provider which serves less than seventy-five thousand (75,000) access lines within the State, only the incumbent local exchange telecommunications service provider shall be eligible for OUSF funding except;

(1) Other eligible telecommunications service providers carriers and eligible providers which provide Special Universal Services or Lifeline service shall be eligible to request and receive OUSF funds in the same manner as the incumbent local exchange telecommunications service provider in the same area pursuant to this Chapter;

(2) The incumbent local exchange telecommunications service provider may elect to waive the right to be the only eligible local exchange telecommunications service provider within the local exchange area by filing notice with the Commission; or

(3) When the Commission, after notice and hearing, makes a determination that it is in the public interest that another local exchange telecommunications service provider should also be deemed a carrier of last resort and be eligible to receive OUSF funding in addition to the incumbent local exchange telecommunications service provider. It shall not be in the public interest to designate another local exchange telecommunications service provider as being a carrier of last resort and eligible to receive OUSF funding if such designation would cause a significant adverse economic impact on users of telecommunications services generally or if the other carrier refuses to seek and accept carrier of last resort obligations throughout the universal service area as designated by the Commission. The other local exchange telecommunications service provider shall not receive OUSF funding at a level higher than the level of funding the incumbent local exchange telecommunications service provider is eligible to receive for the same area if the incumbent local exchange telecommunications service provider is also providing service in the same area and the other local exchange telecommunications service provider meets the requirements of subsection (c) of this Section.

(e) In order to be designated as an eligible local exchange telecommunications service provider for purposes of Federal Universal Service support, the local exchange telecommunications service provider shall meet the requirements of 47 U.S.C. § 214(e).

(f) Notwithstanding the criteria set forth in this Section for designation as an eligible local exchange telecommunications service provider, a commercial mobile radio service provider may, after notice and hearing, seek ~~reimbursement from the OUSF~~ Funding for the provision of services supported by the OUSF.

(g) Notwithstanding the criteria set forth in this Chapter for designation as an eligible local exchange telecommunications service provider, ~~OneNet and/or any telecommunications carrier~~ any eligible provider may seek ~~reimbursement from the~~

OUSF Funding for the provision of Special Universal Services consistent with ~~17 O.S. § 139.109~~ 17 O.S. § 139.109.1.

(h) Any provider who is not prohibited from applying for OUSF funds as set forth in ~~17 O.S. §139.109~~, eligible provider shall receive funding for any Special Universal Services provided and contributions made to the Oklahoma E911 Emergency Service Fund and the Oklahoma Telecommunications Technology Training Fund from the OUSF without a hearing, in a manner consistent with OAC 165:59-7-1 and the Oklahoma Telecommunication Act. The funding shall be approved only after the appropriate forms have been submitted to filed with the Commission's Court Clerk, and reviewed by the OUSF Administrator or contracted agent.

(i) For an area served by an incumbent local exchange telecommunications service provider which serves less than seventy-five thousand (75,000) access lines within the State, the incumbent local exchange telecommunications service provider may elect to waive the right to be the only eligible local exchange telecommunications service provider within the local exchange area by filing notice with the Commission.

165:59-3-15. Relinquishment of OUSF support eligibility [REVOKED]

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

165:59-3-16. Designation of eligible telecommunications carriers for unserved areas

In no event shall any area(s) be without the capability of accessing universal services supported by the OUSF. If no eligible local exchange telecommunications service provider of telecommunications services is currently providing the services that are supported by the OUSF to an unserved area or any portion of the area that requests such service, the Commission will:

- (A) Determine which eligible local exchange telecommunications service provider(s) telecommunications carrier, or carriers, are best able to provide such service to the unserved area(s), or portion of the area(s); and,
- (B) Order such eligible local exchange telecommunications service provider(s) telecommunications carrier, or carriers, to provide such service to that area(s), or portion of the area(s).

PART 5. ADMINISTRATION OF THE OUSF

165:59-3-30. Administration of the Fund

(a) ~~The Commission will appoint the OUSF Administrator, which shall be the Public Utility Division of the Commission.~~

~~(b) The Public Utility Division, as the appointed OUSF Administrator, may as necessary, take all actions necessary to fulfill the objectives of the Oklahoma Telecommunications Act, including but not limited to, contract contracting with a third party having no conflict of interest in the provisioning of telecommunications services, for the provisioning of assistance with the administrative functions related to the OUSF.~~

~~(e)(b) The OUSF Administrator is expressly authorized to bring actions before the Commission to enforce the provisions of this Chapter and the Oklahoma Telecommunications Act of 1997.~~

~~(d)(c) The OUSF Administrator or and/or contracted agent shall act under the supervision of the Commission, in order to administer the OUSF in accordance with the rules and procedures approved by the Commission and consistent be independent in its evaluation, in accordance with this Subchapter and the Oklahoma Telecommunications Act of 1997.~~

~~(e)(d) The OUSF Administrator's and/or contracted agent's general duties shall include, but not be limited to:~~

~~(1) Receiving, distributing, and accounting for funds paid into the OUSF;~~

~~(2) Providing funding to eligible telecommunications providers and eligible local exchange telecommunications service providers in accordance with the Oklahoma Telecommunications Act from the OUSF;~~

~~(3) Managing the daily operations and affairs of the OUSF;~~

~~(4) Monitoring and assuring contribution/payment compliance as well as conducting periodic audits of the contributing providers contributors to the OUSF to ensure that the contributors contributing providers are accurately reporting and making proper payments to the OUSF;~~

~~(5) Monitoring and assuring that all federal and state universal service funds received by the eligible local exchange telecommunications service providers, eligible providers, and OUSF Beneficiaries, are used for the purposes allowed under the Oklahoma Telecommunications Act, for primary and special universal services, by any entity are used for the provision, maintenance and/or upgrading of facilities and services for which the support is intended.~~

~~(6) Performing any periodic audits of the OUSF deemed necessary by the Administrator and/or the Commission;~~

~~(7)(6) Informally resolving disputes;~~

~~(8)(7) Reviewing all Requests for OUSF Funding and OUSF administrative preapproval requests within time frames identified in this Chapter the Oklahoma Telecommunications Act, and making a recommendation to the Commission for approval, modification or denial of such requests determination of the accuracy of the requests, advise the eligible local exchange telecommunications service provider or eligible provider requesting the funds of the determination of eligibility made by the OUSF Administrator, and determine the eligibility of the OUSF Beneficiary; and,~~

~~(9)(8) Performing any other duties as required by law or and/or this Chapter or as ordered by the Commission.~~

~~(e) The OUSF Administrator and/or contracted agent shall authorize payment of the approved funding to the requesting eligible local exchange telecommunications service provider or eligible provider, pursuant to the Oklahoma Telecommunications Act.~~

~~(f) The Commission finds that it has jurisdiction pursuant to Article IX, Section 18 of the~~

Oklahoma Constitution, and 51 O.S. § 24A.22 to classify, and hereby does classify, all information that is not otherwise publicly available, provided by an eligible local exchange telecommunications service provider, an eligible provider, an OUSF Beneficiary, or contributing provider in all matters submitted and filed pursuant to the Oklahoma Telecommunications Act as confidential. All information classified as confidential shall be used by the OUSF Administrator, ALJ, and the Commission solely in connection with the review and disposition of all matters subject to the Oklahoma Telecommunications Act. The OUSF Administrator, the ALJ, the Commission and all other parties that gain access as provided herein to confidential information shall keep all confidential information confidential, and shall not use such data except for purposes of administering the OUSF, and shall not disclose such data to any unauthorized person, provided, confidential information may be disclosed to parties in the cause after the party in the cause signs a standard nondisclosure agreement, as posted on the Commission Website.

165:59-3-32. Audits of the Fund

(a) The OUSF shall be audited annually by an a non-OUSF, independent auditor selected by a committee with input from the State Auditor's Office. ~~the Administrator.~~ The committee shall be selected by the Commission's Director of Administration.

(b) The annual audit should be based on assessed program risk conducted in accordance with standards.

(c) The audit may include further objectives as requested by the Commission's Director of Administration, the State Auditor's Office, the Oklahoma Attorney General, and/or as required by the contract between the OUSF and independent auditor.

~~(b)~~(d) The cost of the annual audit audits of the OUSF shall be funded by the OUSF.

(e) All audit reports, once finalized, shall be provided to the Oklahoma Attorney General.

165:59-3-34. Resolution of disputes regarding contributions to the OUSF and OLF

(a) Any telecommunications ~~carrier contributing provider~~ operating within Oklahoma may dispute the amount of contribution assessed it by the OUSF Administrator for the OUSF and OLF, in the following manner:

(1) The telecommunications ~~carrier contributing provider~~ shall submit a written notice setting forth its dispute in detail to the OUSF Administrator, on or before the payment due date, and the OUSF Administrator shall have the initial responsibility for trying to resolve resolving the dispute.

(2) If satisfactory resolution is not achieved within thirty (30) days of the receipt of the written notice of dispute, the telecommunications ~~carrier contributing provider~~ may file an application in the Commission's Court Clerk's Office requesting that the Commission resolve the dispute.

(b) Pending final resolution of a dispute, the disputing telecommunications ~~carrier contributing provider~~ shall pay the disputed and undisputed amounts to the OUSF and OLF.

(c) If the disputing telecommunications ~~carrier contributing provider~~ prevails in its pretest of the required contribution dispute, the telecommunications ~~carrier contributing provider~~ will be entitled to a refund, with interest, at the then effective interest rate, as provided

by OAC 165:55-9-14(e)(1), from the date the disputed charge was paid to the date of refund.

(d) No acceptance of any payment shall be construed as an accord that the amount paid is in fact the correct amount, nor shall any acceptance of payments be construed as a release of any claim that the OUSF Administrator may have for further or additional sums payable.

165:59-3-36. Resolution of other disputes

(a) Any adversely impacted party may dispute the actions of a ~~telecommunications carrier~~ an eligible local exchange telecommunications service provider or an eligible provider related to the provisioning of Universal Services. The adversely affected party may contact the OUSF Administrator or contracted agent of the OUSF and the OUSF Administrator shall have the initial responsibility for trying to resolve the dispute.

(b) If satisfactory resolution is not achieved, the affected party may file an application requesting the Commission resolve the dispute.

165:59-3-38. Violations

(a) Failure to pay an assessed contribution to the OUSF shall be deemed a violation of the Oklahoma Telecommunications Act and this Chapter.

(b) The Commission may use all authority it has pursuant to the Oklahoma Constitution and laws of this State to ensure compliance with the Oklahoma Telecommunications Act and this Chapter.

PART 7. CONTRIBUTIONS TO THE OUSF

165:59-3-40. Contributors to the OUSF

(a) The OUSF shall be funded in a competitively neutral manner in accordance with the Oklahoma Telecommunications Act. Every ~~telecommunication carrier~~ shall contribute/make payments, on a nondiscriminatory basis, into the OUSF.

(b) Each contributing provider, whether they are subject to the jurisdiction of the Commission or not, shall annually provide contact information to the OUSF Administrator for the purpose of correspondence regarding contribution to the OUSF. The submission of an annual report to the Commission shall be deemed compliance with this paragraph.

(c) Each telecommunications carrier providing wholesale telecommunications services to VoIP providers in Oklahoma will annually provide the identity, to include address, of each such VoIP provider(s) to the OUSF Administrator as available. While the names of the VoIP providers may be made publicly available, all information with regard to the reporting telecommunications carrier will be treated as confidential.

(d) The contributing provider must certify to the truth and accuracy of data used to determine the contributing provider's contribution amounts. The OUSF Administrator may verify any information used by the contributing provider in its determination of its contributions to the OUSF. Contributing providers shall maintain records and documentation to justify information used in its determination of its contributions to the OUSF for three (3) years, and shall provide such records and documentation to the

OUSF Administrator upon request. Inaccurate or untruthful information used by the contributing provider may lead to prosecution to the full extent of the law.

165:59-3-42. Reporting requirements

Each ~~telecommunications carrier~~ contributing provider shall, within thirty (30) days from the date of a request made for information necessary for the OUSF Administrator to perform its duties under the Oklahoma Telecommunications Act and this Chapter shall submit the requested information to the OUSF Administrator, unless otherwise agreed between the OUSF Administrator and the ~~telecommunications carrier~~ contributing provider.

165:59-3-44. Amount of contributions and charges assessed for the OUSF

(a) The amount of contribution required from each ~~telecommunications carrier~~ contributing provider shall be determined as provided in the Oklahoma Telecommunications Act.

(b) The OUSF Administrator shall, based on the amount to be contributed to the OUSF, calculate the contribution required to be made to the OUSF by each ~~contributor~~ contributing provider, based on the fund level established by the Commission sufficient to recover the costs of administration and payments for OUSF and OLF requests for funding, as provided by the Oklahoma Telecommunications Act and the information provided pursuant to OAC 165:59-3-42.

(c) ~~Each telecommunications carrier shall pay its contribution directly to the Administrator as directed by the Administrator, on a monthly, quarterly, or annual basis, at the carrier's option, at the beginning of the payment period(s) selected. The payment shall be payable to the "OUSF." The invoice or other request for OUSF contributions shall be past due thirty (30) calendar days after the date on the invoice, unless otherwise agreed by the Administrator or as may be ordered by the Commission.~~

~~(d) Interest shall be charged on any payment not received by the past due date at the rate of 1.5% monthly.~~

~~(e)~~(d) All contributions and interest payments made to the "OUSF" OUSF shall be deposited into the OUSF account established by the OUSF Administrator or and/or contracted agent.

165:59-3-46. Recovery of OUSF contributions

(a) A ~~telecommunications carrier~~ contributing provider may, at its option, recover the amount it pays into the OUSF from its retail customers as provided in the Oklahoma Telecommunications Act. If the ~~telecommunications carrier~~ contributing provider elects to recover the amount of its contributions from its retail customers, such recovery shall be made in a fair, equitable and nondiscriminatory manner.

(b) Any over-recovery of the OUSF contributions for the preceding year shall be carried forward to the ensuing year, and shall be included as a reduction in the calculation of the retail end-user recovery amount for the ensuing twelve-month period of the ~~telecommunications carrier's~~ contributing provider's OUSF contributions; ~~recovery from its customers.~~ Any under-recovery of the OUSF contribution for the preceding year, may be included as an increase in the calculation of the retail end-user recovery amount for the ensuing twelve-month period of the ~~telecommunication carrier's~~ contributing

provider's OUSF recovery from its customers, provided the telecommunications carrier contributing provider made a reasonable attempt to collect the funds in the preceding year.

(c) The Commission may, as it deems appropriate, order modifications in a regulated ~~telecommunications carrier's~~ contributing provider's method of recovery from its customers, after notice and hearing.

(d) In the event a ~~telecommunications carrier~~ contributing provider, excluding prepaid wireless providers, elects to recover its OUSF contributions from its customers, the amounts of the recovery shall be explicitly stated as a line item on customer's bills.

PART 9. REQUEST FOR OUSF FUNDING

165:59-3-60. Requests for funding from the OUSF

(a) ~~Any eligible telecommunications service provider~~ Eligible local exchange telecommunications service providers and eligible providers may request funding from the OUSF as allowed by law necessary to maintain rates for primary universal services, at rates that are reasonable and affordable, and special universal services, and to provide for reasonably comparable services at affordable rates in rural areas as in urban areas.

(b) Any eligible provider may request funding from the OUSF as necessary for the provision of Special Universal Services.

(c) Should the OUSF at any time experience a shortfall, the costs associated with administering the fund will be paid first, followed by the payment due to the Oklahoma Attorney General, pursuant to 17 O.S. § 139.103. Thereafter, any residual funds will be distributed to ~~eligible OUSF recipients~~ providers on a pro rata basis, pursuant to their approved requests. The balance of each approved request for OUSF funding will be paid at such time as additional funds become available.

(e) ~~Each request for OUSF funding by an eligible ILEC serving less than seventy five thousand (75,000) access lines shall be in accordance with the Oklahoma Telecommunications Act.~~

(d) ~~The Commission shall process any request for OUSF funding by an ILEC serving seventy five thousand (75,000) or more access lines or a CLEC, in accordance with the Oklahoma Telecommunications Act.~~

165:59-3-61. Forms for requesting funding from the OUSF

(a) The appropriate forms necessary for making an OUSF funding request and preapproval funding request shall be available on the Commission's website, and may be obtained from the OUSF Administrator.

(b) The OUSF Administrator shall post the forms on the Commission's website no later than August 31, 2016 for requests made for funding years prior to the funding year beginning July 1, 2017, and on or before June 30 preceding each subsequent funding year.

(c) Any party objecting to the form shall file an Application in the Commission's Court Clerk's office within 15 days of the form being posted on the Commission's website. Notice of the objection shall be given to the OUSF Administrator, the Oklahoma

Attorney General, and shall be posted on the Commission's website by the OUSF Administrator within three (3) days of the filing of the Application.

(d) Each objection filed shall be filed in a separate cause and shall provide details of the objection sufficient to allow the Commission to fully evaluate the objection. The Commission may, within its sole discretion, conduct a hearing to resolve the dispute. If the Commission opts to conduct a hearing, it shall provide at least five (5) day notice to the parties in the cause. Any interested person may participate in the hearing by filing an entry of appearance and a statement of position setting forth their position on the objection. The entry of appearance and statement of position shall be served on all parties to the cause.

(e) The Commission shall issue a final order on the objection to the form within thirty (30) days of the objection being filed, or if no order is issued, then the objection shall be deemed approved, and the form modified accordingly.

165:59-3-62. Procedures for requesting funding from the OUSF [REVOKED]

~~(a) An eligible local exchange telecommunications service provider or provider of Special Universal Services requesting funds from the OUSF shall file a "Request for OUSF Funding" with the Commission Court Clerk's Office. On the date of filing the Request for OUSF Funding, the eligible telecommunications carrier or provider of Special Universal Services shall deliver a filed copy of the Request to the Administrator for processing. To facilitate the timely evaluation of requests for funding from the OUSF, a Request for OUSF Funding shall not contain a request for funding Special Universal Services to more than one Eligible Healthcare Entity or more than one School District or more than one Library system. The filing of the Request for OUSF Funding shall start the 90 day review period established by 17 O.S. §139.106(D) unless otherwise agreed to by the requesting provider.~~

~~(b) Applications found to be incomplete (missing information required by the form and instruction package contained on the Commission website) may be denied.~~

~~(c) It is the intention of the Commission that each funding request will be reviewed on a case-by-case basis. Part 9 of Subchapter 3 does not purport to predetermine the merits of any funding request. The eligible telecommunications service provider requesting OUSF funding for primary universal service shall make every reasonable and timely effort to obtain funding from alternative funding sources designated to support universal service, and shall submit all documentation of the effort to obtain funding from alternative funding sources designated to support universal service as a part of its Request for OUSF funding set forth in subsection (a), or an explanation for why alternative funding is not available. Upon the company providing the documentation that it has sought alternative funding sources or an explanation for why alternative funding is not available, the company shall not be precluded from having its application processed.~~

~~(d) If a provider receives funding from alternative funding sources for an investment or expense already reimbursed by the OUSF, the provider shall refund the double collection to the OUSF by either reducing a prospective funding request from the OUSF by an equivalent amount or remitting cash payment to the OUSF. Under no circumstances will double recovery be allowed.~~

~~(e) Concurrent with the filing of the Request for OUSF Funding, the eligible~~

~~telecommunications carrier who is requesting funding from the OUSF shall provide copies of its Request for OUSF Funding and notice of the Request for OUSF Funding, to the Director of the Public Utility Division, to the Attorney General and to the school/library/telemedicine entity. In addition, the eligible telecommunications carrier, which is requesting funding shall provide notice of the Request for OUSF Funding to the contributors to the OUSF. The notice requirement to each telecommunications carrier in the State of Oklahoma which is a contributor to the OUSF, shall be accomplished by providing an electronic copy of such notification to the Fund Administrator on the date the eligible telecommunications provider files its Request for OUSF Funding at the Commission's Court Clerk's office for posting on the OCC website. The OUSF Administrator will then place the notification on the OCC website within five (5) business days. The Administrator shall provide a list of the contributors to the OUSF, upon request by an eligible telecommunications carrier. The notice shall identify whether the request is for Lifeline support, Primary Universal Service support or Special Universal Service support. The notice and Request for OUSF Funding shall also include the dollar amount requested for the lump sum and any recurring amounts, as well as the name and address of the school/library/telemedicine entity for which OUSF funding is sought in the Application.~~

~~(f) An eligible telecommunications carrier or provider of Special Universal Services shall submit to the Administrator or file with its Request for OUSF Funding a copy of its tariffed rate for the data speed set forth in 17 O.S. § 139.109(C)(4) or its equivalent. If the eligible carrier or provider does not have a tariffed rate for the data speed set forth in 17 O.S. § 139.109(C)(4), then the eligible carrier or provider shall provide a copy of its Individual Case Basis pricing or a document that describes the rates being charged. The eligible carrier or provider shall also provide a diagram showing the configuration identifying components and charges.~~

~~(g) Within ninety (90) days after receipt of the completed Request for OUSF Funding, the Administrator shall review, determine the accuracy of the request, and advise the provider requesting the OUSF funds of the determination of eligibility. Simultaneously with the Administrator or contracted agent advising the provider, the Administrator or contracted agent shall provide the written determination to the Commission and post it to the Commission's website. The carrier shall provide a copy of the Administrator's Determination to the school/library/telemedicine entity within five (5) days after it is filed.~~

~~(h) Any adversely affected party shall have fifteen (15) days to file a request for reconsideration by the Commission of the Determination made by the Administrator. Upon filing a request for reconsideration, the party requesting reconsideration shall file a Request for Procedural Schedule with the Request for Reconsideration that sets the Request for Reconsideration before an Administrative Law Judge.~~

~~(i) The Commission will, within thirty (30) days from the request for reconsideration, issue an order on the Request for OUSF Funding after reviewing the Administrator's or contracted agent's Determination regarding the Request for OUSF Funding and any request for reconsideration. The party requesting reconsideration shall give notice to the provider making the Request for OUSF Funding, the Attorney General, the Administrator or contracted agent, the school/library/telemedicine entity on whose behalf which funding is requested and all parties of the time and place for hearing.~~

~~(j) If no request for reconsideration of the Administrator's Determination is filed, an order will be issued by the Commission approving the request without further notice and/or hearing.~~

~~(k) If a Request for Reconsideration is filed and the Commission does not issue an order within the time frames set forth in this Section, the request shall be deemed approved, on an interim basis, subject to refund, with interest at a rate determined by the Commission. Any refund shall include interest at a rate of not more than the interest rate established by the Commission on customer deposits and shall accrue for a period not to exceed ninety (90) days from the date the funds were received by the requesting eligible provider.~~

~~(l) The Commission shall ensure that all OUSF funds have been received and are on deposit in a sufficient manner so as to pay requests for OUSF funding for primary Universal Services as ordered by the Commission, or as may be deemed approved in accordance with State law. The Administrator or contracted agent shall authorize payment of the approved funding to the requesting Incumbent Local Exchange Carrier, OneNet, or company that has a Certificate of Convenience and Necessity, after issuance of a Commission order approving payment or the request is deemed approved, whichever occurs sooner.~~

~~(m) Any Request for OUSF Funding may be returned to the requesting party and deemed denied if the appropriate forms are not used or said forms are not completed in a satisfactory manner. The appropriate forms and applicable instructions may be obtained from the Administrator or the Commission's website.~~

~~(n) Unless good cause is shown, any request for OUSF funding should be made within eighteen (18) months from the date the requesting telecommunications carrier can determine the impact of occurrence of the circumstance giving rise to the request.~~

~~(o) An eligible telecommunications carrier or provider shall receive future reimbursement upon submission of properly submitted true-ups to the Fund Administrator or contracted agent, and upon request, provide copies of invoices submitted to the customer or subscriber showing a credit equivalent to the reimbursement which has been received by the provider from the OUSF.~~

~~(p) An eligible telecommunications carrier or provider shall submit changes to the monthly recurring support based on discount adjustments received from alternative funding sources designated to support universal service such as E Rate and the FCC's rural health care programs, to the Fund Administrator or contracted agent via the monthly true-up reports, for processing. Any ongoing monthly recurring charges will be adjusted as necessary based on the appropriate discount approved by the Universal Service Administrative Company.~~

~~(q) An eligible telecommunications carrier or provider shall notify the Fund Administrator or contracted agent in writing, of any changes to the provisioning of service, including but not limited to disconnection of service, upgrade and/or downgrade in connectivity speed, and adding or removing eligible buildings. Any increase to the number of entities will require approval from the Fund Administrator or contract agent in order to determine if a new application will be required and a new Commission Order issued to approve reimbursement. The Administrator shall advise the provider of its determination within thirty (30) days of receipt of the written notice provided by the provider. If the Administrator fails to advise the provider of its determination within the thirty (30) day~~

~~period the OUSF funding being received by the provider will not change until a new request for OUSF funding is processed in accordance with the Oklahoma Telecommunications Act and this Chapter.~~

~~(r) An eligible telecommunications carrier or provider of Special Universal Services requesting funds from the OUSF may request preapproval of a Request for OUSF Funding.~~

~~(1) A request for preapproval shall follow the procedures outlined in OAC 165:59-3-62 (a) (q). The purpose of such a preapproval request is to provide greater certainty to providers of Special Universal Services and the eligible institutions that rely on those services. No OUSF funds shall be dispersed to an eligible telecommunications carrier or provider of Special Universal Services until the services are installed and in service. The amount of OUSF funding preapproved under this subsection shall be subject to adjustments based on the amount of support received from other sources, if any, as well as adjustments to pricing that may occur between the time of preapproval and installation of service. Additional services or buildings that are installed beyond those contained in the pre-approved application shall require an additional application to be filed.~~

~~(2) Upon receipt of an application under this paragraph, the Administrator shall process the application in the manner outlined in 165:59-3-62 (e) (j). If the Administrator recommends that preapproval be granted, the Commission may enter an Interim Order regarding the specific request for which preapproval is sought. After the services are installed and in service, the provider of Special Universal Services shall provide documentation regarding the installation and charge for the services, after which time the Commission may enter a final order in the cause approving disbursement of OUSF funds if there are no material differences between the services for which pre-approval was granted and the services that were installed.~~

~~(3) This paragraph is intended to supplement and not supplant the current application process, and eligible telecommunication carriers and providers of Special Universal Services shall still submit requests for funding from OUSF in the manner provided in OAC 165:59-3-62 (a) (q).~~

165:59-3-65. [RESERVED]

165:59-3-66. Procedures for OUSF administrative preapproval request

Preapproval is an optional process available to OUSF Beneficiaries who desire to have certainty regarding the amount that will be paid from the OUSF in support of Special Universal Services on behalf of the OUSF Beneficiary.

(1) The OUSF Beneficiary may submit an OUSF administrative preapproval request to the OUSF Administrator to determine eligible services and credit amounts for the upcoming funding year.

(2) An OUSF administrative preapproval request may be submitted at any time.

(3) The OUSF administrative preapproval request shall be submitted via email to the OUSF Administrator in the form that has been approved. The OUSF administrative preapproval request must contain:

(A) All documents and information required by the approved form; and

(B) All documents identified in 17 O.S. § 139.109.1(F)(2)(d).

(4) The OUSF Administrator shall review the provided documentation and issue a preapproval funding letter to the OUSF Beneficiary and the eligible provider within ninety (90) days of receipt of a properly completed OUSF administrative preapproval request.

(5) An OUSF administrative preapproval request that is found by the OUSF Administrator to be incomplete (missing information required by the form and instruction package contained on the Commission website) may be denied.

(6) The OUSF Administrator and/or contracted agent shall independently review the OUSF administrative preapproval request and issue an OUSF preapproval funding letter, without Commission order.

(7) After a preapproval funding letter has been issued, an OUSF Beneficiary may submit a new OUSF administrative preapproval request to provide corrections or additional information per program rules issued by the Commission.

(8) Unless an OUSF Beneficiary receives preapproval of an OUSF administrative preapproval request, the Beneficiary shall not identify the OUSF as the source of secured funds for any purpose.

(9) The amount of OUSF funding preapproved under this subsection shall be subject to adjustments based on the amount of support received from other sources, if any, as well as adjustments to pricing that may occur between the time of preapproval and installation of service.

(10) Additional services that are installed beyond those contained in the preapproval Request for OUSF Funding shall require a Request for OUSF Funding to be filed.

165:59-3-67. [RESERVED]

165:59-3-68. Procedures for requesting funding from the OUSF – Special Universal Services

(a) An eligible provider of Special Universal Services may seek and obtain funds from the OUSF by filing a "Request for OUSF Funding" with the Commission Court Clerk's Office. On the date of filing the Request for OUSF Funding, the eligible provider shall deliver a filed copy of the Request for funding to the OUSF Administrator for processing.

(b) The caption of the Request for OUSF Funding shall include the name of the eligible provider and the name of the OUSF Beneficiary; the caption shall not include any financial amounts requested.

(c) The Request for OUSF Funding shall include, but not be limited to the following:

(1) The name and address of the eligible provider;

(2) The name and address of the OUSF Beneficiary;

(3) A description of the provisions of the Oklahoma Telecommunications Act relied on for the request;

(4) The amount requested for funding;

(5) The completed Affidavit, including all required attachments

(6) An affidavit signed by the eligible provider, verifying the truth and accuracy of the information contained in the Request for OUSF Funding and attachments; and

(7) A copy of the preapproval funding letter, if preapproval was sought by the OUSF Beneficiary.

(d) To facilitate the timely evaluation of requests for funding from the OUSF, a Request for OUSF Funding shall not contain a request for funding Special Universal Services to more than one Eligible Healthcare Entity, or more than one School District, or more than one Library system. An eligible provider to a consortium may request a waiver from the OUSF Administrator to allow a Request for OUSF Funding to include eligible members of the consortium within a single request for funding.

(e) No amended Requests for OUSF Funding shall be accepted. Eligible providers may withdraw the originally filed Request for OUSF Funding and file a new request.

(f) A Request for OUSF Funding found to be incomplete (missing information required by the form and instruction package contained on the Commission website) may be denied.

(g) It is the intention of the OUSF Administrator that each Request for OUSF Funding will be reviewed on a case-by-case basis.

(h) Consistent with 17 O.S. § 139.109.1(B)(2), the OUSF Beneficiary shall make every reasonable and timely effort to obtain funding from alternative funding sources designated to support universal service, and shall submit all documentation of the effort to obtain funding from alternative funding sources as a part of the eligible provider's Request for OUSF Funding, or an explanation for why alternative funding is not available.

(i) If an eligible provider receives funding from alternative funding sources for an investment or expense already reimbursed by the OUSF, the eligible provider shall refund the double collection to the OUSF by either reducing a prospective funding request from the OUSF by an equivalent amount or remitting cash payment to the OUSF. Under no circumstances will double recovery be allowed.

(j) Concurrent with the filing of the Request for OUSF Funding, the eligible provider shall:

(1) Provide copies of its Request for OUSF Funding and Notice of the Request for OUSF Funding, to the OUSF Administrator, to the Oklahoma Attorney General, and to the OUSF Beneficiary.

(2) Provide Notice of the Request for OUSF Funding to the contributing providers by providing an electronic copy of such notification to the OUSF Administrator on the date the eligible provider files its Request for OUSF Funding with the Court Clerk's office, for posting on the Commission website. The OUSF Administrator will then place the notification on the Commission website within five (5) business days.

(3) Provide notice which identifies the dollar amount requested for the lump sum and any recurring amounts, as well as the name and address of the OUSF Beneficiary.

(k) The OUSF Administrator and/or its contracted agent shall independently review and determine the accuracy of the complete request and issue a Determination of the eligibility for funds, within 60 days if a preapproval funding letter was issued or within 90 days if no preapproval funding letter was issued. Simultaneously with the OUSF Administrator or contracted agent providing a copy of the Determination to the eligible provider and parties to the cause, the OUSF Administrator or contracted agent shall file the Determination in the Commission's Court Clerk's office and post it to the Commission's website. The eligible provider shall provide a copy of the OUSF Administrator's Determination to the OUSF beneficiary within five (5) days after it is filed.

(l) Any affected party, as defined in 17 O.S. § 139.106(D)(5), may file a request for reconsideration within 15 days of the Determination being filed by the OUSF Administrator, by following the procedures in OAC 165:59-3-72.

(m) If no Request for Reconsideration is filed, the Determination shall be deemed final on the 16th day after the Determination is filed. The OUSF Administrator or contracted agent shall issue payment within 45 days of the previously mentioned 16th day, without an order of the Commission.

(n) Unless good cause is shown, any Request for OUSF Funding should be made within eighteen (18) months from the date the requesting eligible provider can determine the impact of occurrence of the circumstance giving rise to the request; however, if an OUSF Beneficiary has obtained a preapproval funding letter from the OUSF Administrator, the eligible provider shall make a request for funding within 60 days of the start of service.

(o) An eligible provider shall receive future reimbursement upon submission of properly formatted monthly payment requests, and any other required forms, to the OUSF Administrator and/or contracted agent, which shall include discount adjustments received from alternative funding sources designated to support universal service such as E-rate and the FCC's rural health care programs. Any ongoing monthly recurring charges will be adjusted as necessary based on the appropriate discount approved by USAC.

(p) An eligible provider shall notify the OUSF Administrator and/or contracted agent in writing, and in a format determined by the OUSF Administrator and/or contracted agent, of any changes to the provisioning of service, including but not limited to disconnection of service, upgrade and/or downgrade in connectivity speed, or price. Any change to the previously approved Special Universal Services will require approval from the OUSF Administrator and/or contract agent in order to determine if a new Request for OUSF Funding will be required, rather than the OUSF Administrator approving reimbursement through the monthly payment process. The OUSF Administrator shall advise the eligible provider of its determination within sixty (60) days of receipt of the written notice from the eligible provider identifying the change(s). If the OUSF Administrator fails to advise the eligible provider of its determination concerning the requested change within the sixty (60) day period, the OUSF funding being received by the eligible provider will cease until a new Request for OUSF Funding is processed in accordance with the Oklahoma Telecommunications Act and this Chapter.

(q) When an eligible provider will no longer be providing Special Universal Services it shall notify the OUSF Administrator of the disconnection of service date fifteen (15) days prior to disconnection, or immediately upon receipt of a request for disconnection, if the request is less than fifteen (15) days prior to disconnection.

(r) No OUSF funds shall be dispersed to an eligible provider of Special Universal Services until the services are installed and in service.

165:59-3-69. [RESERVED]

165:59-3-70. Procedures for requesting funding from the OUSF – Primary Universal Service

(a) An eligible local exchange telecommunications service provider may seek and obtain funds from the OUSF by filing a "Request for OUSF Funding" with the Commission Court Clerk's Office. On the date of filing the Request for OUSF Funding, the local exchange telecommunications service provider shall deliver a filed copy of the Request for funding to the OUSF Administrator for processing.

(b) The caption of the Request for OUSF Funding shall include the name of the eligible local exchange telecommunications service provider and that the request is for Primary Universal Services; the caption shall not include any financial amounts requested.

(c) The Request for OUSF Funding shall include, but not be limited to the following:

(1) The name and address of the eligible local exchange telecommunications service provider;

(2) A description of the provisions of the Oklahoma Telecommunications Act relied on for the request;

(3) The amount requested for funding;

(4) The completed Affidavit, including all required attachments

(5) An affidavit signed by the eligible local exchange telecommunications service provider, verifying the truth and accuracy of the information contained in the Request for OUSF Funding and attachments; and

(d) No amended Requests for OUSF Funding shall be accepted. Eligible local exchange telecommunications service providers may withdraw the originally filed Request for OUSF Funding and file a new request.

(e) Requests for OUSF Funding found to be incomplete (missing information required by the form and instruction package contained on the Commission website) may be denied.

(f) It is the intention of the OUSF Administrator that each funding request will be reviewed on a case-by-case basis.

(g) The eligible local exchange telecommunications service provider requesting OUSF funding for primary universal service shall make every reasonable and timely effort to obtain funding from alternative funding sources designated to support universal service, and shall submit all documentation of the effort to obtain funding from alternative funding sources designated to support universal service as a part of its Request for OUSF Funding, or an explanation for why alternative funding is not available. Upon the eligible local exchange telecommunications service provider producing the documentation that it has sought alternative funding sources or an explanation for why alternative funding is not available, the eligible local exchange telecommunications service provider shall not be precluded from having its Request for OUSF Funding processed.

(h) If an eligible local exchange telecommunications service provider receives funding from alternative funding sources for an investment or expense already reimbursed by the OUSF, the eligible local exchange telecommunications service provider shall refund the double collection to the OUSF by either reducing a prospective funding request from the OUSF by an equivalent amount or remitting cash payment to the OUSF. Under no circumstances will double recovery be allowed.

(i) Concurrent with the filing of the Request for OUSF Funding, the eligible local exchange telecommunications service provider shall:

(1) Provide copies of its Request for OUSF Funding, and notice of the Request for

OUSF Funding to the OUSF Administrator and to the Oklahoma Attorney General.

(2) Provide notice of the Request for OUSF Funding, which shall include the dollar amount of the request for lump sum and any recurring amounts, to the contributing providers by providing an electronic copy of such notification to the OUSF Administrator on the date the eligible local exchange telecommunications service provider files its Request for OUSF Funding with the Court Clerk's office, for posting on the Commission website. The OUSF Administrator will then place the notification on the Commission website within five (5) business days.

(j) The OUSF Administrator and/or contracted agent shall independently review and determine the accuracy of the complete request and issue a determination of the eligibility for funds, which details the amount of funding recoverable from the OUSF, within 90 days. Simultaneously with the OUSF Administrator or contracted agent advising the provider and parties to the cause, the OUSF Administrator or contracted agent shall file the written Determination in the Commission's Court Clerk's office and post it to the Commission's website. The eligible local exchange telecommunications service provider shall provide a copy of the OUSF Administrator's Determination to all parties of record within five (5) days after it is filed.

(k) Any affected party, as defined in 17 O.S. § 139.106(D)(5), may file a Request for Reconsideration within 15 days of the Determination being filed by the OUSF Administrator, by following the procedures in OAC 165:59-3-72.

(l) If no Request for Reconsideration is filed, the Determination shall be deemed final on the 16th day after the Determination is filed. The OUSF Administrator or contracted agent shall issue payment within 45 days of the previously mentioned 16th day, without an order of the Commission.

(m) Unless good cause is shown, any Request for OUSF Funding should be made within eighteen (18) months from the date the requesting local exchange telecommunications service provider can determine the impact of occurrence of the circumstance giving rise to the request.

(n) An eligible local exchange telecommunications service provider shall receive future reimbursement upon submission of properly formatted monthly payment requests, and any other required forms, to the OUSF Administrator or contracted agent.

165:59-3-71. [RESERVED]

165:59-3-72. Request for reconsideration procedures

(a) The Request for Reconsideration and a Notice of Prehearing Conference shall be filed with the Commission's Court Clerk and provided to all parties of record on the same day it is filed.

(b) Notice of the Request for Reconsideration shall be given to the OUSF Administrator, the Oklahoma Attorney General, and all parties to the cause, and shall be posted on the Commission's website by the OUSF Administrator.

(c) Upon filing the Request for Reconsideration and the Notice of Prehearing Conference, the Request for Reconsideration shall, without Commission order, be assigned to an ALJ, and set for hearing on the next regularly scheduled prehearing conference date, unless the Commission directs otherwise.

(d) At the time a Request for Reconsideration is filed, all documentation, not contained

in the public record and not filed in the case with the Commission Court Clerk's office, relied upon by the OUSF Administrator in making the Determination, shall be made available to the party filing the Request for Reconsideration. No confidential information and/or highly sensitive confidential information shall be provided until the nondisclosure agreement, as approved pursuant to OAC 165:59:3-30(f) is signed by the affected party. Additionally, all data requests issued with respect to a Request for Reconsideration shall be answered within ten (10) business days, unless otherwise agreed by the parties. Any prefiled testimony, statement of position, or legal brief in support of the Request for Reconsideration shall be filed with the Court Clerk within fifteen (15) days of the Request for Reconsideration.

(e) Any responsive prefiled testimony or responsive legal brief shall be filed with the Court Clerk, and provided to all parties to the cause, within ten (10) business days of the filing of the prefiled testimony or legal brief, as referenced in subsection (d).

(f) During the prehearing conference, the ALJ shall identify any additional requirements for a procedural schedule, including scheduling a hearing on the merits, if deemed necessary by the ALJ. The ALJ may determine that a hearing on the merits is not needed for cases without material disputes of fact or if all parties waive cross-examination. The hearing on the merits shall be set within forty-five (45) calendar days of filing of the Request for Reconsideration, unless the Commission orders otherwise. The parties shall adhere to the procedural schedule set by the ALJ without a Commission order.

(g) The ALJ shall issue an ALJ report containing the findings of fact, conclusions of law, and recommendation within fifteen (15) business days of the hearing on the merits. If the ALJ determines no hearing on the merits is necessary, the ALJ shall issue an ALJ report as set forth herein, no later than sixty (60) calendar days after the date the Request for Reconsideration was filed.

(h) Recommendations on motions, objections, and all filings made prior to the issuance of an ALJ report shall be addressed by the ALJ in the ALJ report, containing the recommendation on the merits of the Request for Reconsideration, unless the Commission orders otherwise.

(i) Oral or written exceptions regarding motions, objections, and all filings made prior to the issuance of an ALJ report will not be allowed, unless the Commission orders otherwise. Exceptions to the ALJ report, shall be governed under OAC 165:5-13-5(a)(2), (b) and (c).

SUBCHAPTER 7. SPECIAL UNIVERSAL SERVICES

165:59-7-1. Reimbursement from the OUSF for Special Universal Service

(a) A ~~An OUSF Beneficiary provider of Special Universal Services~~ may be eligible to receive funding from both the OUSF and other state or federal funds; however, in no instance will there be a double recovery. If the ~~OUSF Beneficiary provider of Special Universal Services~~ receives funding from another state or federal fund for an investment or expense already reimbursed by the OUSF, the ~~OUSF Beneficiary~~ shall notify the eligible provider and thereafter the eligible provider shall reduce the amount of its credit to the OUSF Beneficiary and its prospective funding request from the OUSF by an equivalent amount. The ~~OUSF Beneficiary provider of Special Universal Services~~ shall

~~work with the recipient to make every reasonable effort to obtain funding from another state and/or federal fund designated to support special universal service.; however, such efforts shall not delay or affect the provider's ability to receive funding from the OUSF pursuant to the provisions of this Chapter and the Oklahoma Telecommunications Act. The OUSF Beneficiary provider shall provide the Commission OUSF Administrator with information regarding the recipient's OUSF Beneficiary's request for funding from government sources designed to support the provisioning of the Special Universal Service, i.e. the federal schools and libraries program or federal rural health care program, or an explanation of why such funding is not available, or why the recipient OUSF Beneficiary of the Special Universal Service did not request such funding. Failure to provide such documentation regarding Special Universal Service may result in the Commission OUSF Administrator denying the request for Special Universal Service funding from the OUSF. The OUSF Beneficiary shall provide evidence of any exemption it has to obtain funding from another state or federal fund designated to support Special Universal Services.~~

~~(b) A provider of the free-of-charge telecommunications services identified in this Chapter and 17 O.S. § 139.109 as Special Universal Services, shall be reimbursed from the OUSF for the provisioning of said Special Universal Services, if requested.~~

~~(c) A provider of Special Universal Services seeking reimbursement from the OUSF for the tariffed rate or charge for any Special Universal Service provided must make its request for reimbursement pursuant to OAC 165:59-3-62, in the same manner that an eligible telecommunications carrier requests funds from the OUSF for purposes other than the provisioning of Special Universal Services. The requesting provider shall submit information with its Request for OUSF Funding that identifies where and to whom the services were provided, along with documentation supporting the requested level of funding. The information shall include the applicable tariffed rate or charges for providing the services.~~

~~(d) Upon receipt of a Request for OUSF Funding, the Administrator of the OUSF or the contracted agent shall review the Request and, if appropriate, reimburse the provider of the Special Universal Services, consistent with the Oklahoma Telecommunications Act.~~

~~(e) The Commission OUSF Administrator will utilize the following procedures when evaluating a request for OUSF funding for internet Internet access to a public school or public library:~~

~~(1) Competitive A fair and open competitive bidding should be used for all services where process shall be used to select the services and eligible provider for which OUSF funding will be sought, including costs for internet Internet access to schools and libraries for the balance not paid by E-Rate, up to the eligible 1.5 Mbps building credit equivalent E-rate.~~

~~(2) An affidavit will be required from the public school or public library that the bid information submitted to the OUSF Administrator for review contains all the bids received by the school or library. All evaluation tools utilized by the OUSF Beneficiary while reviewing the bids, including all received bids, must be provided to the OUSF Administrator at the Commission offices or in a manner approved by the OUSF Administrator.~~

~~(3) The OUSF will not reimburse charges for redundant service(s).~~

~~(4) The provider of the LAN/WAN will be given 30 days notice prior to their reimbursement being reduced due to the funding going to the internet access provider first, unless the reduction in funding is caused by an increase in the rate of the LAN/WAN provider.~~

~~(5) Funding from the OUSF will be provided to the incumbent carrier until the date of disconnection or thirty (30) days after the end-user provides the notice to disconnect to the incumbent carrier, whichever occurs first.~~

~~(6) In instances where the provider has not filed or submitted a 1.5 Mbps tariff to the Commission, the OUSF will calculate the 1.5 Mbps building credit using the amount established for a 1.5 Mbps credit by Commission Order.~~

~~(7) For applications that include funding for the internet access and for LAN/WAN systems, the OUSF will reimburse distance sensitive mileage for the internet access for the "first building" credit when the carrier's tariff has a mileage sensitive component. Each subsequent building credit will not include distance sensitive mileage.~~

~~(8) For applications that include funding for LAN/WAN only, the OUSF will not fund distance sensitive mileage in any building credit unless more than one Central Office is involved to provision internet access. In the latter case, distance sensitive mileage will be allowed for only one (1) building credit per central office.~~

~~(9) In the event a school uses multiple service providers for the Internet and LAN/WAN connection, available building credits will be utilized to first fund the Internet service provider, and then the LAN/WAN service provider will be funded based upon remaining available building credits. The OUSF shall not fund more than one eligible provider for the same service at the same location for the same time period, except during a transition period from one eligible provider to another. Such funding during a transition period shall not exceed thirty (30) days.~~

~~(10)(5) The OUSF will fund reasonable installation and special construction charges. These charges shall be evaluated as part of the overall bid pricing and funding evaluation. Installation, special construction charges, early termination charges, and charges assessed upon the expiration of a contract for schools and libraries will be amortized over a one-year period for purposes of the OUSF Administrator's analysis of lowest cost reasonable qualifying bid selection by the OUSF Beneficiary, unless the bid allocates the construction over multiple years and is approved pursuant to state or federal law. Installation charges may be amortized over a reasonable period of time to avoid excessive switching, reduced quality of service and excessive burden on the OUSF caused by untimely carrier changes.~~

~~(11) The OUSF will not reimburse monthly fees or hardware related to optional services, such as managed routers. The OUSF may pay a one-time cost for the installation charge associated with configuring the router.~~

~~(12) One (1) building credit is available for each building which contains classrooms wherein students in pre-kindergarten through twelfth grades receive internet-based coursework. Buildings with a physical firewall would qualify for a building credit for each section of the building that is separated by a physical functional firewall.~~

~~(13) A building that is the point of service, but which fails to otherwise qualify as a public school building in which classrooms are contained, does not qualify as a building for the purpose of calculating building credits.~~

~~(14) Building credits will only be allowed for buildings with classrooms that have active student instructional/testing internet sessions or use the building for state mandated testing that uses internet access. In instances where the internet usage is limited to student testing, the school must demonstrate that alternative locations or methods for testing are not available.~~

~~(15) The OUSF will not fund internet access to a building for more than 60 days during the construction phase or any remodeling/out-of-service timeframes that occur over an extended period.~~

(6) The OUSF will fund either the lowest cost reasonable qualifying bid, or a bid that is no more than 25% above the lowest cost reasonable qualifying bid, for the same bandwidth selected by the OUSF Beneficiary. If the selected bid is more than 25% above the lowest cost reasonable qualifying bid, the OUSF will fund the lowest cost reasonable qualifying bid plus the 25%.

~~(16)~~(7) Once an Order regarding OUSF reimbursement has been issued, the Telecommunications Carrier OUSF funding has been approved pursuant to the Oklahoma Telecommunications Act, the eligible provider should submit true-up monthly payment reports to the OUSF manager OUSF Administrator or the contracted agent on a monthly basis. The initial payment will be as necessary to pay all amounts approved but not yet received by the eligible provider. After the initial monthly payment request is submitted, a monthly payment request should be submitted by the eligible provider to collect the amount of credit provided to the OUSF Beneficiary. The monthly payment requests shall be paid on the next regularly scheduled payment date. A new Request for OUSF Funding must be filed to recover any monthly payment amount that exceeds ninety (90) days of service, unless otherwise agreed to by the OUSF Administrator.

~~(17)~~(8) True-up Monthly payment reports must be received in the form and content prescribed by the OUSF Administrator.

~~(18)~~(9) The OUSF Administrator will post to the Commission website a copy of the monthly payout true-up payment report; within five (5) days of the payout true-up payment report being approved by the OUSF Administrator.

~~(19)~~(10) True-up monthly Monthly recurring amounts or other funding related changes (i.e. number of buildings or level of bandwidth) will not be increased from the ordered approved amount without supporting documentation being made available to the OUSF Administrator.

~~(20) Increases in cost caused by the expiration of a contract will not be permitted via true-up when the new cost is higher than 10% of the expired contract and when there is no new contract in place. A new application will need to be filed in the Court Clerk's office to recover any difference in prices that exceed 10% of the expired contract price.~~

~~(21) Any additional service above and beyond the internet access line on contracts and invoices will be denied, unless good cause is shown for reasonable pricing and public interest. Invoices provided to request recovery from the OUSF must contain a breakdown of non-eligible expenses, such as additional internet maintenance service, Quality of Service product, firewall, email packages, domain registration, etc.~~

(11) Funding for eligible services, including federal funding, shall not exceed actual eligible expenses.

~~(f) The Commission will utilize the following procedures when evaluating a request for OUSF funding for a telemedicine line:~~

~~(1) Competitive bidding should be used for all services where OUSF funding will be sought.~~

~~(2) An affidavit will be required from the telemedicine entity that the bid information submitted to the Administrator for review contains all the bids received by the telemedicine entity.~~

~~(3) The OUSF will not reimburse charges for redundant service(s).~~

~~(4) Funding from the OUSF will be provided to the incumbent carrier until the date of disconnection or thirty (30) days after the end user provides the notice to disconnect to the incumbent carrier; whichever occurs first.~~

~~(5) The OUSF will fund reasonable installation charges. Installation charges may be amortized over a reasonable period of time to avoid excessive switching, reduced quality of service and excessive burden on the OUSF caused by untimely carrier changes.~~

~~(6) The OUSF will not reimburse monthly fees or hardware related to optional services, such as managed routers or maintenance.~~

~~(7) Once an Order regarding OUSF reimbursement has been issued, the Telecommunications Carrier should submit true-up reports to the OUSF manager on a monthly basis. Payment will be limited to ninety (90) days of true-up; other than for the initial true-up filed after the final Order is issued. After the initial true-up request, a new application must be filed to recover any true-up amount that exceeds ninety (90) days of service, unless otherwise agreed to by the Administrator.~~

~~(8) True-up reports must be received in the form and content prescribed by the OUSF Administrator.~~

~~(9) The Administrator will post to the Commission website a copy of the monthly payout true-up report; within five (5) days of the payout true-up report being approved by the OUSF Administrator.~~

~~(10) Changes to the funding level may not be done by true-up unless expressly authorized by the OUSF Administrator after review of changes to the bandwidth needs of the eligible healthcare entity. True-up monthly recurring amounts or other funding related changes (i.e. level of bandwidth) will not be increased from the ordered amount without supporting documentation being made available to the OUSF Administrator.~~

~~(11) Increases in cost caused by the expiration of a contract will not be permitted via true-up when the new cost is higher than 10% of the expired contract and when there is no new contract in place. A new application will need to be filed in the Court Clerk's office to recover any difference in prices caused by an expired contract.~~

~~(12) Any additional service above and beyond the telemedicine line on contracts and invoices will be denied, unless good cause is shown for reasonable pricing and public interest. Invoices provided to request recovery from the OUSF must contain a breakdown of non-eligible expenses, such as Quality of Service product, firewall, email packages, domain registration, etc.~~

(c) The OUSF Administrator will utilize the following procedures when evaluating a request for OUSF funding for a telemedicine line:

(1) A fair and open competitive bidding process shall be used to select the services and eligible provider for which OUSF funding will be sought, including costs for Internet access to eligible healthcare entities.

(2) An affidavit will be required from the eligible healthcare entity that the bid information submitted to the OUSF Administrator for review contains all the bids received by the eligible healthcare entity. All evaluation tools utilized by the OUSF Beneficiary while reviewing the bids, including all received bids, must be provided to the OUSF Administrator.

(3) The OUSF will not reimburse charges for redundant service(s).

(4) The OUSF shall not fund more than one eligible provider for the same service at the same location for the same time period, except during a transition period from one eligible provider to another. Such funding during a transition period shall not exceed thirty (30) days.

(5) The OUSF will fund reasonable installation and/or reasonable construction charges. These charges shall be evaluated as part of the OUSF Administrator's analysis of lowest cost reasonable qualifying bid selection by the OUSF Beneficiary. Installation charges, construction charges, early termination fees, and charges assessed upon the expiration of a contract will be amortized over the initial term of the contract when determining the lowest cost reasonable qualifying bid.

(6) The OUSF will fund either the lowest cost reasonable qualifying bid, or a bid that is no more than 25% above the lowest cost reasonable qualifying bid, for the same bandwidth selected by the OUSF Beneficiary. If the selected bid is more than 25% above the lowest cost reasonable qualifying bid, the OUSF will fund the lowest cost reasonable qualifying bid plus the 25%.

(7) Once OUSF funding has been approved pursuant to the Oklahoma Telecommunications Act, the eligible provider should submit monthly payment reports to the OUSF Administrator or the contracted agent on a monthly basis. The initial payment will be as necessary to pay all amounts approved but not yet received by the eligible provider. After the initial monthly payment request is submitted, a monthly payment request should be submitted by the eligible provider to collect the amount of credit provided to the eligible healthcare entity. The monthly payment requests shall be paid on the next regularly scheduled payment date. A new Request for OUSF Funding must be filed to recover any monthly payment amount that exceeds ninety (90) days of service, unless otherwise agreed to by the OUSF Administrator.

(8) Monthly payment reports must be received in the form and content prescribed by the OUSF Administrator.

(9) The OUSF Administrator will post to the Commission website a copy of the monthly payment report within five (5) days of the payment report being approved by the OUSF Administrator.

(10) Monthly recurring amounts or other funding related changes (i.e. level of bandwidth) will not be increased from the approved amount without supporting documentation being made available to the OUSF Administrator.

(11) Funding for eligible services, including federal funding, shall not exceed actual eligible expenses.

(12) Increases in cost caused by the expiration of a contract will not be permitted via the monthly payment process when the new cost is higher than 10% of the expired contract and when there is no new contract in place. A new Request for OUSF Funding will need to be filed in the Court Clerk's office to recover any difference in prices caused by an expired contract.

(13) Reimbursement of the cost for any additional service above and beyond the telemedicine bandwidth on contracts and invoices will be denied, unless the costs are in compliance with the Oklahoma Telecommunications Act. Invoices provided to request OUSF Funding must contain a breakdown of non-eligible expenses, such as firewall (unless provided as a standard component of Internet access by the eligible provider to all customers with the same type of service and not priced separately), email packages, and domain registration, etc.

165:59-7-5. Toll-free calling to not-for-profit hospitals [REVOKED]

~~(a) Upon receipt of a written request by an authorized representative of a not for profit hospital, as defined by this Chapter, a telecommunications carrier shall, by itself or in conjunction with another provider of telecommunications services, provide a toll-free telephone number, and up to a total of five access lines, free of charge, to allow incoming toll free calls from any location within the geographic area served by the requesting not for profit hospital. The furnished telephone number shall allow toll free calls from the geographical area served by the not for profit hospital, or a larger area if providing access to a larger area is determined by the telecommunications carrier to be more economical. The written request shall be in the form and content approved by the Director of the Public Utility Division.~~

~~(b) Where the technical capability exists, the telecommunications carrier shall periodically monitor the usage only of each provided telephone number, and if, upon review, usage does not support the initially requested number of access lines, the number of access lines may be reduced.~~

~~(c) The telecommunications carrier providing the Special Universal Service shall receive reimbursement from the OUSF in the amount of the tariffed rate or charge directly attributable to the provisioning of the incoming, toll free telephone number, the associated usage, the access lines and all access or other charges paid by the telecommunications carrier providing the Special Universal Service.~~

165:59-7-6. Telemedicine access for eligible healthcare entities

(a) It is the intention of the Commission that this Chapter be interpreted to assist in the development of telemedicine service programs which in turn have the following effects on eligible ~~health care~~ healthcare entities:

- (1) Empowering eligible healthcare entities, especially those in rural areas, to provide a higher level of medical service;
- (2) Expanding the range of medical services available, especially those in rural areas;
- (3) Providing greater access to more choices in medical care by patients in rural areas;

- (4) Reducing the number of rural patient transfers to urban areas;
- (5) Enhancing rural economic development; and
- (6) Reducing the costs of medical care at eligible healthcare entities.

(b) Upon compliance with the competitively bidding process and other requirements set forth in the Oklahoma Telecommunications Act, and upon receipt of a written request by an authorized representative of an eligible healthcare entity, as defined by this Chapter, the telecommunications carrier or OneNet eligible provider shall, by itself or in conjunction with another provider of telecommunications services, provide Special Universal Services to the eligible healthcare entity one telecommunications line or wireless connection, free of charge, sufficient for providing such telemedicine, clinical, and health consultation services as the entity is equipped to provide as set forth in 17 O.S. § 139.109(C)(2).

~~(c) The telecommunications carrier shall be entitled to reimbursement from the OUSF for the recurring amount of the tariff rate or charge directly attributable to the telecommunications line or wireless connection.~~

(c) Special Universal Services to an eligible healthcare entity include the provision of bandwidth per standards as recommended by the Federal Communications Commission sufficient for providing telemedicine services including the telemedicine line, reasonable installation, and network termination equipment owned and operated by the eligible provider that is necessary to provide the eligible telemedicine service. Bandwidth may be rounded up to the next available standard service increment to avoid increased costs to the fund.

(1) The OUSF Administrator shall approve funding for bandwidth requests, up to and including the amount listed below, for an eligible healthcare entity as follows:

(A) Department of Corrections shall be eligible for funding up to 100 Mbps;

(B) Federally Qualified Health Centers shall be eligible for funding as follows:

(i) Urban locations up to 500 Mbps;

(ii) Rural locations up to 100 Mbps.

(C) County Health Department shall be eligible for funding as follows:

(i) Urban locations up to 500 Mbps;

(ii) Rural locations up to 100 Mbps.

(D) City-County Health Department shall be eligible for funding funding as follows:

(i) Urban locations up to 500 Mbps;

(ii) Rural locations up to 100 Mbps.

(E) Not for Profit Mental Health and Substance Abuse Facilities (certified facilities pursuant to OAC 450, Chapters 17 and 24) that are not staffed 24-hours each day shall be eligible for funding up to 100 Mbps;

(F) Eligible healthcare entities that are staffed 24-hours each day, including academic facilities, large medical centers, hospitals, and mental health and substance abuse facilities (certified facilities pursuant to OAC 450 Chapter 23) shall be eligible to receive bandwidth, based on licensed or certified beds, as follows:

(i) 1 to 50 beds shall be eligible for funding up to 500 Mbps;

(ii) 51 to 100 beds shall be eligible for funding up to 1 Gbps;

(iii) 101 to 200 beds shall be eligible for funding up to 3 Gbps;

(iv) 201 or greater beds shall be eligible for funding up to 10 Gbps.

(2) When determining whether funding for additional bandwidth is appropriate, when an eligible healthcare entity requests funding for a bandwidth that exceeds the amounts listed in section (1), the OUSF Administrator may consider, but not be limited to considering, the following factors:

(A) Number of health care providers and staff at the eligible healthcare entity;

(B) Number of beds at the eligible healthcare entity;

(C) The telemedicine services provided at the eligible healthcare entity;

(D) Support for other telemedicine facilities that require broadband access with consideration for any payments received by the supporting facility; and

(E) Prior bandwidth usage, not including public network usage.

(d) In no case, however, shall reimbursement from the OUSF be made for an Internet subscriber fee or charges incurred as a result of services accessed via the Internet.

(e) The ~~telecommunications carrier~~ eligible provider shall be entitled to reimbursement from the OUSF for a one-time reasonable charge for the establishment of service of a new telecommunications line or wireless connection. Under this subsection (e), reimbursement is intended to allow for reasonable changes in 1) the telecommunications services and technologies purchased by an eligible healthcare entity, 2) the physical location of an eligible healthcare entity by permitting establishment of new service at a new location, and and/or 3) the ~~telecommunications carrier~~ eligible provider providing service to an eligible healthcare entity.

(f) The written request by an authorized representative of an eligible healthcare entity to a ~~telecommunications carrier or OneNet~~ an eligible provider shall be in the form and content approved by the ~~Director of the Public Utility Division~~ OUSF Administrator.

~~(g) No later than February 1, each eligible healthcare entity that receives OUSF telemedicine funding shall, annually recertify for the purpose of determining their continued eligibility. The annual recertification shall be in the form and content approved by the Director of the Public Utility Division. If the healthcare entity is not recertified for the current level of funding, then funding will be adjusted or cease as of July 1 of the same calendar year unless determined otherwise by the Commission; except that in 2013 funding shall be adjusted or cease December 31, 2013, unless determined otherwise by the Commission.~~

~~(h) No later than May 1, the Public Utility Division shall mail a letter to each eligible healthcare entity and its telecommunications service provider, to inform of the Public Utility Division's determination regarding recertification. If either the eligible healthcare entity or the telecommunications service provider disputes the determination of eligibility or bandwidth to be funded by the OUSF after July 1 of that year (December 31, in 2013 only), they may file an application in the Court Clerk's office to request reconsideration by the Commission.~~

~~(i) Effective July 1, 2016, eligible healthcare entities that are eligible for funding from a federal healthcare program are expected to not only request funding, but are expected to follow through and complete the process for federal funding. The telecommunications carrier that provides the Special Universal Service to an eligible healthcare entity that is eligible for federal funding shall provide the Form 463 and and/or Form 467 filed by the eligible healthcare to PUD, within thirty (30) days after the~~

~~eligible healthcare entity has submitted the form to the Universal Service Administrative Corporation.~~

~~(g) The OUSF Administrator and/or its contracted agent may periodically seek verification of continued eligibility from an eligible healthcare entity, and the eligible healthcare entity shall maintain sufficient documentation to be able to provide verification of eligibility within fifteen (15) calendar days after request of the OUSF Administrator and/or its contracted agent. Failure to supply the requested eligibility verification within the stated timeframe will result in immediate discontinuance of OUSF support until information is received and deemed complete, unless the Commission directs otherwise.~~

~~(h) Eligible healthcare entities that are eligible for funding from a program designed to support universal service, including but not limited to the FCC Rural Health Care Program, are expected to not only request funding, but are expected to follow through and complete the process for Rural Health Care Program funding.~~

~~(i) If the eligible healthcare entity is eligible for Rural Health Care Program funding, the following documents shall be provided to the OUSF Administrator within thirty (30) days after the eligible healthcare entity has either submitted the form to USAC, or received the form from USAC, whichever is applicable.~~

~~(1) If eligible under the Telecommunications program, the eligible healthcare entity must provide PUD the FCC Form 466, Funding Commitment Letter, FCC Form 467, and Health Care Provider Support Schedule.~~

~~(2) If eligible under the Healthcare Connect Fund, the eligible healthcare entity must provide PUD the FCC Form 462 and associated network cost worksheet, and Funding Commitment Letter.~~

165:59-7-7. Toll-free calling to public schools and public libraries [REVOKED]

~~(a) Upon receipt of a written request by an authorized representative of a public school or public library, as defined by this Chapter, a telecommunications carrier shall, by itself or in conjunction with another provider of telecommunications services, provide one incoming, toll-free telephone number and up to a total of five access lines, free of charge, for each public school building wherein classrooms are contained and for each public library, for the purpose of allowing incoming toll-free calls from any location within the geographical area served by the requesting public school or public library, or a larger area if such area is determined by the telecommunications carrier to be more economical. The written request by a public school or public library shall be in the form and content approved by the Director of the Public Utility Division.~~

~~(b) Where the technical capability exists, the telecommunications carrier shall periodically monitor the usage only of each provided telephone number and if, upon review, usage does not support the initially requested number of access lines, the number of access lines may be reduced.~~

~~(c) The telecommunications carrier providing the Special Universal Service shall receive reimbursement from the OUSF in the amount of the tariffed rate or charge directly attributable to the provisioning of the incoming, toll-free telephone number, the associated usage, the access lines and all access or other charges paid by the telecommunications carrier providing the Special Universal Service.~~

165:59-7-8. Internet access to public schools and libraries

(a) It is the intention of the Commission that this Chapter be interpreted to maximize the availability of Internet access to all public schools and public libraries within Oklahoma, so that children within Oklahoma will be able to utilize the Internet to enhance their learning opportunities, thereby better preparing them for the future.

~~(b) Upon receipt of a written request by a public school or a public library, the telecommunications carrier or OneNet shall, by itself or in conjunction with another provider of Special Universal Services, provide each public school building wherein classrooms are contained and each public library in the state one access line, free of charge, with the ability to connect toll free to an Internet service provider at 1.5 Mbps as set forth in 17 O.S. § 139.109 (C)(4), in the most economically efficient manner for the carrier, or an equivalent dollar credit to be applied by the public school or public library toward similar services, including services are required to link locations prior to accessing a service provider.~~

~~(c) The written request by a public school or public library shall be in the form and content approved by the Director of the Public Utility Division and for a public school shall include an affidavit from the school regarding the number of buildings and a description thereof, for which a building credit is requested. The public school shall also provide a statement explaining the service requested for reimbursement and an affidavit that the service is needed to achieve the educational needs of the school's students.~~

(b) Special Universal Services for schools shall include the E-rate Eligible Services List (ESL) for Category One services as determined by the FCC for the applicable funding year or, in the absence of such a list, as published by USAC. In the event no ESL is available from the FCC or USAC for the applicable funding year, eligible services will be those on the ESL for the last funding year for which an ESL was available.

(c) Special Universal Services shall include the provision of bandwidth sufficient for providing educational services not to exceed, without good cause shown, the standards established for the relevant funding year by the State Educational Technology Directors Association (SETDA) or successor educational broadband standard including Internet access lines, WAN connections, reasonable installation, and network termination equipment owned and operated by the eligible provider as defined by the ESL that is necessary to provide the eligible service. Student counts as reported to the State Department of Education in October of the year prior to the relevant funding year shall be utilized for the purpose of determining bandwidth recommendations established by SETDA for purposes of this paragraph. In the absence of standards prescribed for the applicable funding year, the standards for the next prescribed funding year shall be used. Bandwidth may be rounded up to the next available standard service increment to avoid increased costs to the fund.

(d) Special Universal Services for libraries shall include the E-rate Eligible Services List ("ESL") for Category One services as determined by the Federal Communications Commission for the applicable funding year or, in the absence of such a list, as published by USAC. In the event no ESL is available from the FCC or USAC for the applicable funding year, eligible services will be those on the ESL for the last funding year for which an ESL was available.

(e) Special Universal Services shall include the provision of bandwidth sufficient for providing library services per standards as recommended by the Federal

Communications Commission including Internet access lines, reasonable installation, and network termination equipment owned and operated by the eligible provider that is necessary to provide the eligible service. Bandwidth may be rounded up to the next available standard service increment to avoid increased costs to the fund.

(f) Special Universal Services shall not include voice services that use separate lines or have allocated bandwidth.

~~(d)(g) In no case will the OUSF reimburse an entity for an Internet subscriber fee or charges incurred as a result of services accessed via the Internet.~~

~~(e) The provider of the Internet access component of Special Universal Service shall receive reimbursement from the OUSF in the amount of the tariffed rate or charges directly attributable to the provisioning of the toll-free access line capable of connecting with an Internet service provider as set forth in 17 O.S. § 139.109 (C)(4) and Subchapter 7, and the associated usage, and all access or other charges paid by the provider of the Special Universal Service.~~

165:59-7-9. County seats [REVOKED]

~~(a) Upon receipt of a written request from the board of county commissioners, a telecommunications carrier shall, by itself or in conjunction with another provider of telecommunications services, provide one incoming, toll-free telephone number and up to a total of five access lines, free of charge, for the purpose of allowing incoming, toll-free calls from any location within the geographic area served by the requesting county seat. The furnished telephone number shall allow incoming calls from a larger area if the provision of such service is determined to be more economically efficient for the telecommunications carrier. The written request by a board of county commissioners shall be in the form and content approved by the Director of the Public Utility Division.~~

~~(b) Where the technical capability exists, the telecommunications carrier shall periodically monitor the usage only of the provided telephone number, and if, upon review, usage does not support the requested number of access lines, the number of access lines may be reduced.~~

~~(c) The telecommunications carrier providing the Special Universal Service shall receive reimbursement from the OUSF in the amount of the tariffed rate or charge directly attributable to the provisioning of the incoming, toll-free telephone number, the associated usage, the access lines and all access or other charges paid by the telecommunications carrier providing the Special Universal Service.~~

165:59-7-10. Other sources of funds

(a) Recipients of funds for Special Universal Services OUSF Beneficiaries should make every reasonable effort to seek other sources of funding from state State or federal funds, to minimize the impact on the Oklahoma Universal Service Fund OUSF. This includes completing the application process and requesting disbursement of funds from the federal fund administrator when funding is approved.

(b) Special Construction Cost – Category One services. In the event that federal universal service funding programs offer to match state funds for Special Construction Cost, OUSF Beneficiaries will post bid requests with sufficient lead time for the OUSF Administrator to timely provide preapproval of the selected bid.

(1) Prior to posting the request for bids, OUSF Beneficiaries are required to seek OUSF Administrator approval and review of any bid evaluation criteria for any projects involving Special Construction Cost. Approval of the request for bids and bid evaluation criteria does not guarantee approval of funding.

(2) Cost effectiveness evaluation for projects with Special Construction Cost may extend up to seven (7) years, provided the OUSF Administrator may, upon request, extend the period up to three (3) additional years upon good cause shown. The OUSF Administrator will approve and review the cost comparison as part of the request for bids approval process.

(3) Special Construction Costs will not be included in monthly recurring costs.

(4) Eligible providers that receive Special Construction Cost funding for installation shall maintain or reduce monthly recurring costs, unless good cause is shown.

165:59-7-13. Reselling Special Universal Services Prohibited

Special Universal Services purchased from a an eligible provider of Special Universal Services are for the exclusive use of the eligible healthcare entity, public school, public library, or county government which has submitted a written request for Special Universal Services. Under no circumstances shall the eligible healthcare entity, public school, public library, or county government sell, repackage or share Special Universal Services with any other entity shall not be sold, resold or transferred in consideration for money or any other thing of value.

165:59-7-15. Provision of Special Universal Services

(a) Upon ~~After~~ compliance with the Oklahoma Telecommunications Act, and upon receipt of a written request by an eligible healthcare entity, public school, public library or board of county commissioners OUSF Beneficiary, the eligible provider of Special Universal Services receiving the request shall make a good faith effort to provide the requested Special Universal Service not later than ten (10) business days after receiving the request.

(b) If the requested Special Universal Service cannot be provided within the time limit established by subsection (a) of this Section, the eligible provider of Special Universal Services shall immediately notify the OUSF Beneficiary entity requesting the service of the estimated delay and any interim service that might be available. Service requests shall be filled as quickly as practicable, but no longer than thirty (30) days after the request for service has been received by the eligible provider unless unavoidable delays beyond the eligible provider's control are experienced. If the service will be delayed longer than thirty (30) days, the eligible provider shall promptly notify the Commission OUSF Administrator of the reason for the delay upon becoming aware of the delay, and the anticipated completion date of the request for service.

165:59-7-17. Disclosure on bill regarding provided Special Universal Services

(a) Each eligible provider of Special Universal Services, which may be either a telecommunications carrier or OneNet, shall render a bill to the eligible healthcare entity, public school, public library, or county seat government OUSF Beneficiary regarding said Special Universal Services. The bill shall reflect the provider's itemized charges for the provisioning of tariffed rate or charge for the provided toll-free telephone

~~number, access lines, usage and any other costs incurred by the provider in conjunction with the provision of the Special Universal Services.~~

~~(b) Prior to signing a contract with a school, library or recipient of a telemedicine line an OUSF Beneficiary, the eligible provider shall provide to said school, library or recipient of a telemedicine line the OUSF Beneficiary, written information regarding the limitations on funding from the OUSF. The content of the written information to be provided shall be posted on the Commission's website.~~

165:59-7-18. [RESERVED]

165:59-7-19. Competitive Bidding

(a) In the interest of fostering a fair and open bidding process from all qualified bidders eligible to receive OUSF funding under the Oklahoma Telecommunications Act, the following are requirements for requests for bids:

(1) The bidder must be an eligible provider, as defined in 17 O.S. § 139.102.

(2) Bidding shall not be structured in a manner to exclude carriers eligible to receive OUSF funding where the OUSF Beneficiary is located.

(A) The bid request must require ineligible services be priced separately from OUSF eligible services.

(B) The bid request shall not require that the Internet and WAN be provided by the same eligible provider.

(C) The bid request shall clearly identify the bandwidth range requested by the OUSF Beneficiary.

(b) Bids must contain all costs to provide the Special Universal Services. Any bid containing estimated costs, other than fees and taxes to be paid to a third party, will be disregarded as not meeting the bid requirements.

(c) Bidders are presumed to know statutory requirements for contracts for public entities; bids that do not conform to requirements for public entities may be disregarded.

SUBCHAPTER 9. OKLAHOMA LIFELINE FUND

PART 1. LIFELINE SERVICE PROGRAM

165:59-9-1. Purpose of Oklahoma Lifeline Fund

~~(a) This Subchapter establishes guidelines for the administration of the Oklahoma Lifeline Fund ("OLF"), that are consistent with 17 O.S. §§ 139.105 and 139.107.~~

~~(b) The Oklahoma Lifeline Fund is designed to advance the goals of universal service, and ensure that low-income residential customers within the State of Oklahoma, who meet the criteria of 17 O.S. § 139.105, and 47 CFR §§ 54.400 through 54.415, are provided financial assistance, pursuant to the Oklahoma Telecommunications Act in maintaining basic local exchange telecommunications service.~~

~~(c) The Oklahoma Lifeline Fund is a state fund administered by the Oklahoma Corporation Commission, for the purpose of funding the Lifeline Service Program, as set forth in Section 165:59-9-3.~~

165:59-9-3. Oklahoma Lifeline Service Program

(a) The Oklahoma Lifeline Service Program is a program designed to operate in conjunction with the Federal Lifeline program, to provide a monthly credit to the monthly bill of qualifying residential subscribers for basic local exchange service, in an amount equal to such amount as may be established by the Commission, after notice and hearing or by 17 O.S. § 139.105.

(b) In order to qualify for the Oklahoma Lifeline Service Program, a customer must meet the all applicable requirements of 47 CFR §§ 54.400 through 54.415 54.422 and/or 17 O.S. § 139.105. show that they:

~~(1) Participate in or receive assistance or benefits, as certified by the Department of Human Services, under a program providing:~~

~~(A) Temporary Assistance to Needy Families,~~

~~(B) Supplemental Nutrition Assistance Program (SNAP) f/k/a Food Stamps, or Food Distribution Program on Indian Reservations, (FDPIR),~~

~~(C) Medical Assistance and/or Medicaid, or~~

~~(D) Supplemental Security Income;~~

~~(2) Participate in Federal Public Housing Assistance~~

~~(3) Participate in Low Income Home Energy Assistance Programs~~

~~(4) Participate in or receive assistance or benefits, as certified by the State Department of Rehabilitation Services, under a program providing vocational rehabilitation, including aid to the hearing impaired; or,~~

~~(5) Participate in or receive assistance or benefits, as certified by the Oklahoma Tax Commission, pursuant to the Sales Tax Relief Act, 68 O.S. § 5011 et seq.~~

~~(6) Beginning October 1, 2000, eligibility has been expanded to permit low income individuals living on Tribal lands to establish their income eligibility by certifying participation in one of the following Federal Assistance Programs:~~

~~(A) Bureau of Indian Affairs General Assistance,~~

~~(B) Tribally Administered Temporary Assistance for Needy Families (TANF);~~

~~(C) Head Start Programs (under income qualifying eligibility provision only);~~

~~(D) National School Lunch Program (free lunch program only)~~

(c) Each eligible local exchange telecommunications service provider carrier shall file tariffs implementing a Lifeline Service Program that is consistent with this Subchapter.

(d) Lifeline Assistance shall not be available on a retroactive basis to the customers.

(e) Upon notification to the eligible local exchange telecommunications service provider carrier, the credit will be discontinued for customers who no longer qualify for Lifeline Assistance.

(f) Lifeline Service benefits are applicable only to the primary line at the customer's principal residence. An applicant for Lifeline Service may report only one address in the state as the principal place of residence.

(g) As a participant in Lifeline Assistance, customers will be eligible to receive Toll Restriction Service at no charge.

(h) Each eligible local exchange telecommunications service provider with approved Lifeline Service tariffs shall advertise the availability of the Lifeline Service Program within its exchange(s) or service territory on, at a minimum, an annual basis.

(i) The wireless ETG eligible local exchange telecommunications service provider must provide access to its own customer service department by dialing 611 from the wireless

handset or have a toll free number for contacting the ETC eligible local exchange telecommunications service provider programmed in the phone and clearly identified.

(j) All enrollment in any Lifeline Services from any outdoor mobile location shall be governed by OAC 165:55-23-16.

(k) Any wireless handset provided in conjunction with the Lifeline Service must clearly and permanently identify the provider of the service.

(l) An ETC eligible local exchange telecommunications service provider may not provide Lifeline Service purely by resale without a Commission order.

(m) An approved Lifeline tariff may not be modified without submitting the modification to the Director of the Public Utility Division at least fifteen (15) days prior to the effective date of the proposed change for the purpose of receiving a determination whether the modification is in the public interest. Unless the ETC eligible local exchange telecommunications service provider receives written notification that its modification is NOT IN THE PUBLIC INTEREST within fifteen (15) days after its submission, the submission is deemed to be in the public interest and may be implemented.

(n) The ETC eligible local exchange telecommunications service provider shall utilize a third party verification system that has been approved by the Director of PUD to verify the customer's identity and address, or obtain a waiver from the Director of the Public Utility Division from this requirement.

(o) The ETC eligible local exchange telecommunications service provider must retain a copy of the signed application for Lifeline Service, and any recertification information for five (5) years.

(p) The ETC eligible local exchange telecommunications service provider shall maintain a database sufficient to identify any duplicates among all companies associated with the ETC eligible local exchange telecommunications service provider.

(q) Unless otherwise approved by Commission Order, any Lifeline plan on Tribal Land must include a minimum of 1000 minutes of local voice use or unlimited domestic calling, to be considered in the public interest. Any Lifeline plan on non-Tribal Land must include a minimum of 500 minutes of local voice use to be considered in the public interest.

(r) All marketing efforts must clearly identify the ETC eligible local exchange telecommunications service provider actually providing the Lifeline Service.

(s) In addition to other remedies available to the Commission, violations of the marketing rules may result in a minimum of a thirty (30) days suspension of an ETC's eligible local exchange telecommunications service provider's ability to sign up new customers and/or a fine as authorized by 17 O.S. § 139.105 after notice and hearing.

(t) The eligible local exchange telecommunications service provider carrier seeking reimbursement from the Oklahoma OUSF OLF for the provisioning of Lifeline services shall also note on the certified written statement obtained from the customer the name of the employee or representative who verified the customer's eligibility for Lifeline service and the type of documentation reviewed.

(u) Prior to obtaining money from the OUSF OLF, an ETC eligible local exchange telecommunications service provider must show compliance with 17 O.S. § 139.105(E).

165:59-9-5. Recertification of Lifeline eligibility

Each ETG eligible local exchange telecommunications service provider, eligible to receive Lifeline support from the Oklahoma Lifeline Fund and/or the federal Lifeline Fund shall, annually, require each end-user subscriber to recertify confirming their continued eligibility for the State or Federal Lifeline program. The ETG eligible local exchange telecommunications service provider shall retain a copy of the signed recertification form for three (3) years.

165:59-9-6. Retention of Lifeline eligibility records

All records, including the sign-up form showing proof of eligibility and a report from the third party verification system that shows the identity and address of the Lifeline customer was verified (unless the ETG eligible local exchange telecommunications service provider obtained a waiver from the requirement to utilize a third party verification system) shall be retained by the ETG eligible local exchange telecommunications service provider for a minimum of three (3) years.

PART 3. ADMINISTRATION OF THE OKLAHOMA LIFELINE FUND

165:59-9-11. Administration of the Fund

(a) ~~The Commission will appoint the OLF Administrator, which shall be the Public Utility Division of the Commission shall provide the administration of the OLF. The administrative function shall be headed by the OLF Administrator, as defined in 17 O.S. § 139.102.~~

(b) ~~The Public Utility Division, as the appointed OLF Administrator, may as necessary, take all actions necessary to fulfill the objectives of the Oklahoma Telecommunications Act, including but not limited to, contracting contract with a third-party who has no conflict of interest in the provisioning of telecommunications services for the provisioning of assistance with the administrative functions related to the OLF.~~

(c) The OLF Administrator is expressly authorized to bring actions before the Commission to enforce the provisions of this Subchapter and the Oklahoma Telecommunications Act of 1997.

(d) The OLF Administrator and/or contracted agent shall ~~act under the supervision of the Commission, in order to administer the OLF~~ be independent in its evaluation, in accordance with this Subchapter and the Oklahoma Telecommunications Act of 1997.

(e) The OLF Administrator's or contacted agent's general duties shall include, but not be limited to:

- (1) Receiving, distributing, and accounting for funds paid into the OLF;
- (2) Providing funding to eligible telecommunications providers from the OLF;
- (3) Managing the daily operations and affairs of the OLF;
- (4) Monitoring and assuring contribution/payment compliance, as well as conducting periodic audits of the contributing providers ~~contributors to the OLF~~ to ensure that the contributors are accurately reporting and making proper payments to the OLF;
- (5) Performing any periodic audits of the OLF deemed necessary by the Administrator ~~and/or the Commission~~, provided however, that the Staff of the Public Utility Division shall not conduct an annual audit for any year during which it also acted as the OLF Administrator;
- (6) Informally resolving disputes;

- (7) Reviewing all requests Requests for OLF Funding funding from the OLF within the time frames identified in the Oklahoma Telecommunications Act this Chapter and making a recommendation to the Commission for approval, modification or denial of such requests; and,
- (8) Performing any other duties as required by law, and/or this Chapter, and/or as ordered by the Commission.

165:59-9-13. Audits

~~The Administrator of the OLF shall conduct periodic reviews and/or audits of any telecommunications service provider's carrier's Lifeline Service Program. This review/audit shall include, but not be limited to:~~

- ~~(1) A review of the documentation on file with the telecommunications service provider carrier regarding eligibility of the end user to participate in the Lifeline Service Program; whether received during the initial enrollment or during the annual recertification process and,~~
- ~~(2) The amounts received by the telecommunications service provider carrier for reimbursement from the OLF.~~

(a) The OLF shall be audited annually by a non-OLF independent auditor selected by a committee with input from the State Auditor's Office. The committee shall be selected by the Commission's Director of Administration.

(b) The annual audit should be based on assessed program risk conducted in accordance with standards. It may also include a review of the documentation on file with the eligible local exchange telecommunications service provider regarding eligibility of the end-user to participate in the Lifeline Service Program; whether received during the initial enrollment or during the annual recertification process and, the amounts received by the eligible local exchange telecommunications service provider for reimbursement from the OLF.

(c) The audit may include further objectives as requested by the Commission's Director of Administration, and/or as required by the contract between the OLF and independent auditor.

(d) The cost of audits of the OLF shall be funded by the OLF.

(e) All audit reports, once finalized, shall be provided to the Oklahoma Attorney General.

165:59-9-15. Violations

If a contributor contributing provider to the OLF fails or refuses to make a contribution to the OLF as required by the Oklahoma Telecommunications Act and this Chapter, such violation will be resolved consistent with the provisions of OAC 165:59-3-38.

165:59-9-17. Reporting requirements

Each contributor contributing provider to the OLF shall, within thirty (30) days from the date of a request made for information or a report by the Administrator or contracted agent, submit to the Administrator or contracted agent a completed report form based on a 12-month period identified by the Administrator or contracted agent, containing such information as designated by the Administrator.

PART 5. CONTRIBUTIONS AND REIMBURSEMENTS

165:59-9-21. Contributions to the Oklahoma Lifeline Fund

The OLF shall be funded in a competitively neutral manner, not inconsistent with federal law, by a charge paid by all ~~telecommunications carriers~~ contributing providers, at a level sufficient to ~~maintain the~~ recover the costs of payment for OLF requests and the administrative cost costs of the fund.

165:59-9-23. Amount of contribution

(a) The Administrator or contracted agent shall, consistent with 165:59-3-40, and based on the adjusted amount to be contributed to the OLF, calculate the contribution required to be made to the OLF by each contributor, based on the fund level established by the Commission sufficient to recover the costs of administration and payments for Requests for OLF Funding as provided by the Oklahoma Telecommunications Act, and the information provided pursuant to OAC 165:59-9-17.

(b) The funding from each ~~carrier~~ contributing provider shall be based on the total ~~retail-billed intrastate retail Oklahoma Interconnected Voice over Internet Protocol revenues and intrastate telecommunications revenues~~, from both regulated and unregulated services, of the ~~telecommunications carrier~~ contributing provider, herein after referred to as assessed revenues, as a percentage of all ~~telecommunications carriers' total retail-billed intrastate telecommunications revenues~~, from both regulated and unregulated services for the 12-month period identified by the Administrator or contracted agent revenues of the contributing providers, or such other assessment methodology not inconsistent with federal law. Interconnected VoIP services shall be assessed only as provided for in the decision of the Federal Communications Commission, FCC 10-185, released November 5, 2010, or such other assessment methodology that is not inconsistent with federal law.

(c) For Interconnected VoIP services, contributing providers shall, consistent with the methodology of the Federal Communications Commission, identify intrastate retail revenue subject to the OUSF/OLF assessment through 1) direct assignment; 2) a company specific traffic study; or 3) the inverse of the FCC safe harbor, currently 35.1%. A contributing provider must file an application with the Commission and receive approval to utilize any methodology other than the safe harbor calculation.

~~(e)~~(d) Each ~~telecommunications carrier~~ contributing provider shall pay its contribution directly to the OLF Administrator or contracted agent on a monthly, quarterly, or annual basis, at the ~~carrier's~~ contributing provider's option, at the beginning of the payment period(s) selected. The payment shall be payable to the OUSF OLF. The invoice or other written request for OLF contributions shall be past due thirty (30) calendar days after the date on the invoice or other request for OLF contribution, unless otherwise ordered by the Commission.

~~(d)~~(e) Interest shall be charged on any payment not received by the past due date at the rate of 1.5 percent monthly.

~~(e)~~(f) All contributions and interest payments made to the OLF shall be deposited into the OUSF OLF account by the OLF Administrator or contracted agent.

165:59-9-25. Procedures for requesting reimbursement from the OLF

(a) ~~Any eligible local exchange telecommunications service provider carrier required to file with approved Lifeline Service tariffs may apply to the OLF Administrator or contracted agent of the OLF for reimbursement of the Lifeline Service Program credits provided for residential basic local service.~~

(b) Upon receipt of a "Request for OLF Funding", the Administrator or contracted agent of the OLF shall review the Request and supporting documentation and, as appropriate, pay the applicable amount to the eligible local exchange telecommunications service provider, as provided in the Oklahoma Telecommunications Act.

(c) A An eligible local exchange telecommunications service provider carrier seeking reimbursement of eligible Lifeline Service Program credits from the OLF shall:

(1) File a "Request for OLF Funding" with the Commission Court Clerk's Office.

(2) Concurrent with filing the Request for OLF Funding, the eligible local exchange telecommunications service provider carrier who is requesting funding from the OLF shall provide notice, which shall include the dollar amount of the request for lump sum and any recurring amounts, of the Request for Reimbursement OLF Funding to the OLF Administrator Director of the Public Utility Division, the Oklahoma Attorney General, and to each telecommunications carrier in the State of Oklahoma which is a contributor to the OLF contributing provider by providing an electronic copy of such notification to the OLF Administrator on the date the eligible local exchange telecommunications service provider files its Request for OLF Funding with the Court Clerk's office, for posting on the Commission website. The OLF Administrator will then place the notification on the Commission website within five (5) business days.

(3) ~~Provide a copy of the Request for OLF Funding to the Attorney General and other telecommunications carriers, upon request.~~

(d) ~~An eligible local exchange telecommunications carrier service provider may not receive reimbursements from the OLF unless it demonstrates that its rates have been reduced by an amount equal to the amount of the Lifeline payments that were previously included in the rate structure of the eligible local exchange telecommunications carrier service provider. A telecommunications carrier An eligible local exchange telecommunications service provider shall be eligible for support from the OLF for any amount which is greater than the amount which has been previously included in the rate structure of the eligible local exchange telecommunications carrier service provider.~~

(e) ~~Within ninety (90) days after receipt of the Request for OLF Funding, the Administrator or contracted agent shall review such request, determine the accuracy of the request, and advise the telecommunications provider requesting the OLF funds of the determination of eligibility. Simultaneously with the Administrator or contracted agent advising the provider, the Administrator or contracted agent shall provide the written determination to the Commission and post it to the Commission's website. The OLF Administrator and/or contracted agent shall independently review and determine the accuracy of the complete request and issue a determination of the eligibility for funds, which details the amount of funding recoverable from the OLF, within 90 days. Simultaneously with the OLF Administrator or contracted agent advising the eligible local exchange telecommunications service provider and parties to the cause, the OLF~~

Administrator or contracted agent shall file the written Determination in the Commission's Court Clerk's office and post it to the Commission's website.

~~(f) Any adversely affected party shall have fifteen (15) days to file a request for reconsideration the Commission of the determination made by the Administrator or contracted agent. Upon filing a request for reconsideration, the matter will be set for a hearing. Any affected party may file a request for reconsideration within 15 days of the Determination being filed by the OLF Administrator, by following the procedures in OAC 165:59-3-72.~~

~~(g) The Commission will, within 30 days from the request for reconsideration, issue an order on the request for OLF funding, after reviewing the Administrator's or contracted agent's determination regarding the Request for Reimbursement and any request for reconsideration. The Commission shall give notice to the provider requesting the OLF funds, the Attorney General, the Administrator or contracted agent, and all parties requesting reconsideration of the time and place for hearing.~~

~~(h) If no request for reconsideration of the Administrator's or contracted agent's determination is filed, an order will be issued by the Commission approving the request without further notice and/or hearing.~~

~~(i) If the Commission does not issue an order within the time frames set forth in this Section, the request shall be deemed approved, on an interim basis, subject to refund, with interest at a rate determined by the Commission, but not more than the interest rate established by the Commission on customer deposits. Interest on any refund shall accrue for a period not to exceed ninety (90) days from the date the funds were received by the requesting eligible provider.~~

(g) Any Request for Reconsideration will be processed using the provisions set forth in OAC 165:59-3-72.

~~(j)(h) The OLF Administrator or contracted agent shall ensure that all OLF funds have been received and are on deposit in a sufficient manner so as to pay requests for OLF funding Funding in accordance with the Oklahoma Telecommunications Act and this Chapter as ordered by the Commission or as may be deemed approved in accordance with State law. The OLF Administrator or contracted agent shall provide the approved funding to the requesting eligible local exchange telecommunications carrier service provider, consistent with the procedures in O.A.C 165:59-3-68 within ten (10) days after issuance of a Commission order approving payment or the request is deemed approved, whichever occurs sooner.~~

~~(k)(i) Any request for funds from the OLF will be returned to the requesting party and deemed denied if the appropriate forms are not used or said forms are not completed in a satisfactory manner.~~

165:59-9-27. Recovery of contribution

Each contributor contributing provider to the OLF may recover its contributions to the OLF consistent with 17 O.S. § 139.105. The OLF recovery received by each eligible local exchange telecommunications service provider shall be subject to an annual true-up. Any over- or under-recovery of the Lifeline Service Program contributions for the preceding year shall be carried forward for inclusion in the calculation for recovery in the ensuing year.

165:59-9-29. Resolution of disputes regarding contributions

~~(a) Any telecommunications carrier which contributes to the OLF may dispute the amount of contribution it is required to pay into the OLF, in the following manner:~~

~~(1) The telecommunications carrier shall make a written request to the Administrator or contracted agent of the OLF setting forth its dispute and the Administrator or contracted agent shall have the initial responsibility for trying to resolve the dispute.~~

~~(2) If satisfactory resolution is not achieved, the telecommunications carrier may file an application in the Commission's Court Clerk's Office requesting that the Commission resolve the dispute.~~

~~(b) Pending final resolution of a dispute, the disputing telecommunications carrier shall pay the disputed and undisputed amounts to the OLF.~~

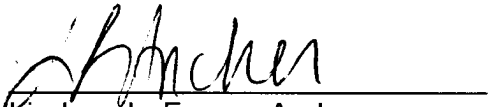
~~(c) If a disputing contributor prevails in its protest of the required contribution, the contributor will be entitled to a refund, with interest, at the then effective rate, as provided by OAC 165:55-9-14, of any excess amount paid.~~

The resolution of disputes regarding the OLF shall be consistent with the procedures set forth in OAC 165:59-3-34.

ATTESTATION

I, the undersigned, do hereby attest that the copy enclosed herewith is a true and correct copy of amendments to OAC 165:59, Oklahoma Universal Service and Oklahoma Lifeline, which was adopted by the Oklahoma Corporation Commission on August 12, 2016, under emergency rulemaking provisions of the Administrative Procedures Act, 75 O.S., Sections 250 et seq.

I, the undersigned do hereby attest that such rules were adopted in substantial compliance with the Administrative Procedures Act.



Lindsay LaFevers Archer
Rulemaking Liaison
Oklahoma Corporation Commission
August 15, 2016