

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2061

By: Fincher

4
5
6 AS INTRODUCED

7 An Act relating to the Corporation Commission;
8 amending 17 O.S. 2011, Section 139.102, as last
9 amended by Section 3, Chapter 270, O.S.L. 2016 (17
10 O.S. Supp. 2018, Section 139.102), which relates to
11 telecommunications; modifying definitions; providing
12 for a total compensation cap for certain facilities;
13 requiring certain affidavit; and providing an
14 effective date.

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

16 SECTION 1. AMENDATORY 17 O.S. 2011, Section 139.102, as
17 last amended by Section 3, Chapter 270, O.S.L. 2016 (17 O.S. Supp.
18 2018, Section 139.102), is amended to read as follows:

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

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

2. "Administrative process" means an administrative application
process which allows eligible local exchange telecommunications

1 providers and eligible providers to request funding and an
2 administrative submission process that allows Oklahoma Universal
3 Service Fund Beneficiaries to submit a preapproval request directly
4 with the Administrator. Both of the administrative processes shall
5 not require an order from the Commission to determine eligibility
6 for, allocate or disburse funds unless a request for reconsideration
7 is filed;

8 3. "Administrator" means the Director of the Public Utility
9 Division of the Corporation Commission;

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

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

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

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

23 8. "Contributing providers" means providers, including but not
24 limited to providers of intrastate telecommunications, providers of

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

15 9. "Eligible healthcare entity" means a not-for-profit
16 hospital, county health department, city-county health department,
17 not-for-profit mental health and substance abuse facility or
18 Federally Qualified Health Center in Oklahoma. Eligible healthcare
19 entity shall also include telemedicine services provided by the
20 Oklahoma Department of Corrections at facilities identified in
21 Section 509 of Title 57 of the Oklahoma Statutes;

22 10. "Eligible local exchange telecommunications service
23 provider" means ILEC, CLEC and commercial radio mobile service
24

1 provider as those terms are used in the Oklahoma Telecommunications
2 Act of 1997;

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

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

9 13. "Enhanced service" means a service that is delivered over
10 communications transmission facilities and that uses computer
11 processing applications to:

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

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

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

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

- 10 a. is receiving a grant under Section 330 of the Public
11 Health Service (PHS) Act, 42 U.S.C., Section 254b, or
12 is receiving funding from a grant under a contract
13 with the recipient of such a grant and meets the
14 requirements to receive a grant under Section 330 of
15 the PHS Act,
- 16 b. based on the recommendation of the Health Resources
17 and Services Administration within the Public Health
18 Service, is determined by the Secretary of the
19 Department of Health and Human Services to meet the
20 requirements for receiving a grant as described in
21 subparagraph a of this paragraph,
- 22 c. was treated by the Secretary of the Department of
23 Health and Human Services, for purposes of part B of
24 Section 330 of the PHS Act, as a comprehensive

1 federally funded health center as of January 1, 1990,
2 or

3 d. is an outpatient health program or facility operated
4 by a tribe or tribal organization under the Indian
5 Self-Determination Act, 25 U.S.C., Section 450f et
6 seq., or by an urban Indian organization receiving
7 funds under Title V of the Indian Health Care
8 Improvement Act, 25 U.S.C., Section 1651 et seq.;

9 17. "Federal Universal Service Support Mechanism" is the
10 support program established by the Telecommunications Act of 1996,
11 47 U.S.C., Section 254(h). The program includes support for
12 schools, libraries and healthcare providers;

13 18. "Funding year" means, for purposes of administering the
14 Oklahoma Universal Service Fund, the period of July 1 through June
15 30;

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

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

4 21. "Incumbent local exchange telecommunications service
5 provider" or "ILEC" means, with respect to an area or exchanges, any
6 telecommunications service provider furnishing local exchange
7 service in such area or exchanges within this state on July 1, 1995,
8 pursuant to a certificate of convenience and necessity or
9 grandfathered authority;

10 22. "Installation charge" means any charge for a nonrecurring
11 service charged by an eligible provider necessary to initiate
12 Special Universal Services. Installation charges may not exceed the
13 cost which would be charged for installation, if the cost were not
14 being paid for by the OUSF;

15 23. "Interexchange telecommunications carrier" or "IXC" means
16 any person, firm, partnership, corporation or other entity, except
17 an incumbent local exchange telecommunications service provider,
18 engaged in furnishing regulated interexchange telecommunications
19 services under the jurisdiction of the Commission;

20 24. "Internet" means the international research-oriented
21 network comprised of business, government, academic and other
22 networks;

23 25. "Local exchange telecommunications service" means a
24 regulated switched or dedicated telecommunications service which

1 originates and terminates within an exchange or an exchange service
2 territory. Local exchange telecommunications service may be
3 terminated by a telecommunications service provider other than the
4 telecommunications service provider on whose network the call
5 originated. The local exchange service territory defined in the
6 originating provider's tariff shall determine whether the call is
7 local exchange service;

8 26. "Local exchange telecommunications service provider" means
9 a company holding a certificate of convenience and necessity from
10 the Commission to provide local exchange telecommunications service;

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

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

21 b. a hospital located in this state which is licensed as
22 a hospital at that location pursuant to Section 1-701
23 et seq. of Title 63 of the Oklahoma Statutes and is
24 owned by a municipality, county, the state or a public

1 trust for the diagnosis, treatment, or care of
2 patients in order to obtain medical care, surgical
3 care, or obstetrical care, or

4 c. a hospital at which no single employee's total
5 compensation shall exceed Five Million Dollars
6 (\$5,000,000.00) in the funding year, or Ten Million
7 Dollars (\$10,000,000.00) in the funding year and
8 previous year period. The total compensation cap
9 applies to all employees at every level in the
10 organization or parent organizations. In addition,
11 the compensation cap is applicable to contracts,
12 outsourcing or any combination of contract fees and
13 compensation. An affidavit stating that no
14 compensation exceeds the limit shall accompany any
15 request for funding;

16 28. "Not-for-profit mental health and substance abuse facility"
17 means a facility, not for the sole purpose of administration, which
18 is operated by the Department of Mental Health and Substance Abuse
19 Services or a facility certified by the Department of Mental Health
20 and Substance Abuse Services as a Community Mental Health Care
21 Center, a Community-Based Structured Crisis Center or a Community
22 Comprehensive Addiction Recovery Center. In addition, a facility at
23 which no single employee's total compensation shall exceed Five
24 Million Dollars (\$5,000,000.00) in the funding year, or Ten Million

1 Dollars (\$10,000,000.00) in the funding year and previous year
2 period. The total compensation cap applies to all employees at
3 every level in the organization or parent organizations. In
4 addition, the compensation cap is applicable to contracts,
5 outsourcing or any combination of contract fees and compensation.
6 An affidavit stating that no compensation exceeds the limit shall
7 accompany any request for funding;

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

10 30. "Oklahoma Lifeline Fund" or "(OLF)" means the fund
11 established and required to be implemented by the Commission
12 pursuant to Section 139.105 of this title;

13 31. "Oklahoma Universal Service Fund" or "(OUSF)" means the
14 fund established and required to be implemented by the Commission
15 pursuant to Section 139.106 of this title;

16 32. "Oklahoma Universal Service Fund Beneficiary" means an
17 entity eligible to receive Special Universal Services support as
18 provided for in subsection A of Section ~~6~~ 139.109.1 of this ~~act~~
19 title;

20 33. "Prediscount amount" means the total cost of Special
21 Universal Services, selected pursuant to the procedures set out in
22 ~~subparagraph 5~~ paragraph 6 of subsection B of Section ~~6~~ 139.109.1 of
23 this ~~act~~ title, before charges are reduced by federal or state
24

1 funding support. The prediscout amount shall not include fees or
2 taxes;

3 34. "Person" means any individual, partnership, association,
4 corporation, governmental entity, public or private organization of
5 any character, or any other entity;

6 35. "Primary universal service" means an access line and dial
7 tone provided to the premises of residential or business customers
8 which provides access to other lines for the transmission of two-way
9 switched or dedicated communication in the local calling area
10 without additional, usage-sensitive charges, including:

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

21 36. "Public library" means a library or library system that is
22 freely open to all persons under identical conditions and which is
23 supported in whole or in part by public funds. Public library shall
24 not include libraries operated as part of any university, college,

1 school museum, the Oklahoma Historical Society or county law
2 libraries;

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

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

21 39. "Special Universal Services" means the telecommunications
22 services supported by the OUSF which are furnished to public
23 schools, public libraries and eligible health care entities as
24 provided for in Section ~~6~~ 139.109.1 of this ~~act~~ title;

1 40. "Tariff" means all or any part of the body of rates, tolls,
2 charges, classifications, and terms and conditions of service
3 relating to regulated services offered, the conditions under which
4 offered, and the charges therefor, which have been filed with the
5 Commission and have become effective;

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

10 42. "Telecommunications carrier" means a person that provides
11 telecommunications service in this state;

12 43. "Telecommunications service" means the offering of
13 telecommunications for a fee;

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

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

22 46. "WAN" means a wide-area network that exists over a large-
23 scale geographical area. A WAN connects different smaller networks,
24 including local area networks and metro area networks, which ensures

1 that computers and users in one location can communicate with
2 computers and users in other locations;

3 47. "Wire center" means a geographic area normally served by a
4 central office; and

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

11 SECTION 2. This act shall become effective November 1, 2019.

12

13 57-1-7002 JBH 01/17/19

14

15

16

17

18

19

20

21

22

23

24