

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA

IN THE MATTER OF A PERMANENT
RULEMAKING OF THE
OKLAHOMA CORPORATION
COMMISSION AMENDING
**OAC 165:59, OKLAHOMA UNIVERSAL
SERVICE AND OKLAHOMA LIFELINE**

CAUSE NO. RM 201700006

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Public Utility Division ("PUD") of the Oklahoma Corporation Commission ("Commission") recommends that the Commission amend the Oklahoma Universal Service Rules that are set forth in the Oklahoma Administrative Code ("OAC") 165:59. The proposed changes will address issues that have arisen concerning the Oklahoma Universal Service Fund ("OUSF") and Oklahoma Lifeline Fund ("OLF"), conform the Commission's rules to the procedures and requirements set forth in the Oklahoma Telecommunications Act ("OTA"), which was amended by HB 2616, effective May 9, 2016. 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 reconsiderations, clarifying the requirements to seek funding, clarifying eligibility for funding equipment, modifying the services that are deemed to be Special Universal Services, adding a competitive bidding process, adding definitions, and removing definitions already listed in the statute.

The proposed amended rules for OAC 165:59 are as follows:

OAC 165:59-1-1, OAC 165:59-1-3, OAC 165:59-3-14, OAC 165:59-3-16, OAC 165:59-3-34, OAC 165:59-3-36, OAC 165:59-3-42, OAC 165:59-3-46, OAC 165:59-7-13, OAC 165:59-7-15, OAC 165:59-7-17, OAC 165:59-9-1, OAC 165:59-9-5, OAC 165:59-9-6, OAC 165:59-9-15, OAC 165:59-9-17, OAC 165:59-9-21, and OAC 165:59-9-27 are amended to correct terminology to remain compliant with the OTA.

OAC 165:59-1-2 is amended to add the term "contributing providers."

OAC 165:59-1-4 is amended to add the following definitions: ALJ, assessed revenues, Bed, Independent administrator or Independent evaluator, Interconnected Voice over Internet

Protocol, SETDA, Special Construction Cost, and USAC, and amended to remove the following definitions: Bona fide request, Eligible healthcare entity, Eligible local exchange telecommunications service provider, Eligible telecommunications carrier, Enhanced service provider, Federally Qualified Health Center, Free of charge, Local exchange telecommunications service provider, Oklahoma Lifeline Fund, Primary Universal Service, Public school building wherein classrooms are contained, Special Universal Services, Tariff, Telemedicine, and Universal service area. Additionally, OAC 165:59-1-4 is amended to correct terminology to remain compliant with the OTA.

OAC 165:59-1-7 is amended to remove "of 1997" when referring to the OTA.

OAC 165:59-3-1, OAC 165:59-3-15, OAC 165:59-7-5, OAC 165:59-7-7, and OAC 165:59-7-9 are revoked to remain compliant with the OTA.

OAC 165:59-3-65, OAC 165:59-3-67, OAC 165:59-3-69, OAC 165:59-3-71, OAC 165:59-7-18, and OAC 165:59-7-20 are added as reserved sections.

OAC 165:59-3-10 is amended to remain compliant with the OTA to provide that the funds reimbursed from the OUSF shall be in accordance with the OTA.

OAC 165:59-3-11 is amended to correct a spacing issue.

OAC 165:59-3-13 is amended to allow the OUSF Administrator to send notice of a filing to be sent via electronic mail, and provide a clear process for establishing the fund amount.

OAC 165:59-3-30 is amended to add a procedure for accessing, reviewing, and distributing confidential information, and determining who may have access to the confidential information, and amended to correct terminology to remain compliant with the OTA.

OAC 165:59-3-32 is amended to add procedures for an independent audit, who may request audit objectives, and provides that the final audit report will be provided to the Oklahoma Attorney General.

OAC 165:59-3-38 is amended to add the term "the Oklahoma Telecommunications Act."

OAC 165:59-3-40 is amended to remain compliant with the OTA concerning who contributes to the OUSF, including VoIP providers.

OAC 165:59-3-44 is amended to correct terminology to remain compliant with the OTA, to provide for a fiscal reporting year, and clarifies how and when contributions to the OUSF must be paid.

OAC 165:59-3-60 is amended to correct terminology to remain compliant with the OTA, and to create a standard caption for special universal service and primary universal service requests.

OAC 165:59-3-61 is amended to correct terminology to remain compliant with the OTA, and to provide a procedure for objecting to OUSF forms.

OAC 165:59-3-62 is revoked to simplify the process into multiple separate sections including Special Universal Services, Primary Universal Services, and a request for reconsideration section.

OAC 165:59-3-64 is amended to correct terminology to remain compliant with the OTA, require the most recent cost studies be provided in causes filed pursuant to 17 O.S. § 139.106(G), and that an eligible local exchange telecommunications service provider adopt a rate of return to be applied in the cost studies based on the FCC Part 65 rules.

OAC 165:59-3-66 is added to create a procedure for OUSF administrative preapproval requests, pursuant to the OTA.

OAC 165:59-3-68 is added to create a separate procedure for requesting funding from the OUSF for Special Universal Services.

OAC 165:59-3-70 is added to create a separate procedure for requesting funding from the OUSF for Primary Universal Services, including adding a detailed minimum filing requirement list.

OAC 165:59-3-72 is added to create a separate procedure for when a request for reconsideration is filed.

OAC 165:59-7-1 is amended to correct terminology and procedures to remain compliant with the OTA, require specific necessary information be provided to the OUSF Administrator, require the OUSF Beneficiary to seek alternative funding, implement the 125% funding of the lowest cost reasonable qualifying bid, clarify the monthly payment process; amends the procedure and needed information for processing a request for OUSF funding for schools, libraries, and providing a telemedicine line.

OAC 165:59-7-6 is amended to correct terminology to remain compliant with the OTA, add bandwidth standards for eligible healthcare entities, add exceptions for eligible healthcare entities who request bandwidth beyond the listed standards, removes the requirement for annual

recertification, add a process for the OUSF Administrator to verify eligibility of eligible healthcare entities, and requires the eligible healthcare entity to seek alternative funding.

OAC 165:59-7-8 is amended to correct terminology to remain compliant with the OTA, remove sections that were duplicative to other sections, add bandwidth standards for schools and libraries, add Category One services as eligible for reimbursement from the OUSF, and require the eligible provider to notify the OUSF Administrator if E-rate funding is discontinued.

OAC 165:59-7-10 is amended to correct terminology to remain compliant with the OTA, add requirements regarding receiving reimbursement for special construction costs, and provides that when funding programs offer to match state funds for special construction costs, the OUSF Beneficiary will post bid requests with sufficient lead time for the OUSF Administrator to provide preapproval of the selected bid.

OAC 165:59-7-19 is added to describe the competitive bidding requirements to be in compliance with the OTA.

OAC 165:59-7-21 is added to describe the OUSF Administrator's process to review and fund installation, construction, and special construction in compliance with the OTA.

OAC 165:59-9-3 is amended to correct terminology to remain compliant with the OTA, amend qualifications for the Oklahoma Lifeline Service Program to remain compliant with the OTA, renames the Public Utility Division to now state OLF Administrator.

OAC 165:59-9-11 is amended to correct terminology to remain compliant with the OTA, and provide that the OUSF Administrator shall be an independent evaluator who shall independently evaluate and review OLF Funding requests.

OAC 165:59-9-13 is amended to add procedures for an independent audit, who may request audit objectives, and that the final audit report will be provided to the Oklahoma Attorney General.

OAC 165:59-9-23 is amended to remain compliant with the OTA concerning who contributes to the OLF, including VoIP providers, amended to provide for a fiscal reporting year, and clarifies how and when contributions to the OLF must be paid.

OAC 165:59-9-25 is amended to correct terminology to remain compliant with the OTA, amended to clarify the information submitted in a request for OLF funding, and amends the process for a request for reconsideration to be similar to those for schools, libraries, and eligible healthcare entities.

OAC 165:59-9-29 is amended to allow for resolution of disputes regarding the OLF to be identical to the resolution of disputes regarding the OUSF.

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

NOTICE IS FURTHER GIVEN that PUD believes it is necessary to adopt permanent rules regarding the Oklahoma Universal Service Fund in order to ensure funding is utilized for the intended purposes, and that funding from the Oklahoma Universal Service Fund is in compliance with the OTA. Upon adoption of the permanent rules proposed herein, by the Commission, the proposed rules shall be submitted to the Governor and the Oklahoma Legislature for approval as permanent rules.

NOTICE IS FURTHER GIVEN that the proposed rules will be made available for public inspection at the Commission's Oklahoma City Court Clerk's office. A copy of the proposed rules may be requested by phone at (405) 521-2352, email at courtclerk@occemail.com, or by visiting the Commission's Oklahoma City Court Clerk's Office, located on the First Floor, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105. The proposed rules are also accessible on the Commission's website at <http://www.occeweb.com>, and may be downloaded at no cost to the end user.

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

NOTICE IS FURTHER GIVEN that PUD will have **technical conferences on February 3, 2017, at 10:30 a.m., and on February 22, 2017, at 10:30 a.m.**, in Courtroom 301, Third Floor, Jim Thorpe Office building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105. All parties interested in the proposed rules are urged and welcome to attend. One or more of the Commissioners may be present at the technical conferences and may participate in the dialogue with the rulemaking participants regarding the issues of the proposed rulemaking.

NOTICE IS FURTHER GIVEN that the Commission invites all interested persons to **submit comments regarding the proposed changes to the Rules on or before February 10, 2017 and March 6, 2017.** Those persons interested in submitting comments should file one (1) copy of their comments, referring to Cause No. RM 201700006, with the Commission's Court Clerk's Office. The comments will be made available for public inspection by telephone, email, or in-person request during regular business hours of the Court Clerk's Office, 8:00 a.m. to 4:30 p.m.

Pursuant to 75 O.S. §§ 303 and 504, business entities are requested, if the proposed rules affect such entities, to provide to the Commission in writing, a description of the probable quantitative (costs) and qualitative impact of the proposed rules, economic or otherwise, and use quantifiable data to the extent possible, taking into account both short-term and long-term consequences.

NOTICE IS FURTHER GIVEN that the **Commission en banc shall consider the adoption of the proposed permanent rules at a public hearing at 9:30 a.m. on March 8, 2017, in Courtroom 301,** Third Floor, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

NOTICE IS FURTHER GIVEN that further information and inquiries regarding this proposed rulemaking should be directed to Jeff W. Kline, Assistant General Counsel, by telephone (405) 521-2308, e-mail j.kline@occcemail.com, facsimile (405) 521-4150, or at Room 400, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, or Post Office Box 52000, Oklahoma City, Oklahoma 73152-2000.

CORPORATION COMMISSION OF OKLAHOMA

BOB ANTHONY, Chairman

DANA L. MURPHY, Vice Chairman

J. TODD HIETT, Commissioner

CERTIFICATION

DONE and PERFORMED this ____ day of _____, 2017 BY ORDER OF
THE COMMISSION:

[Seal]

PEGGY MITCHELL, Commission Secretary

