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BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

IN THE MATTER OF A RULEMAKING)
OF THE OKLAHOMA CORPORATION)
COMMISSION TO ADOPT OAC 165:81)
TO ESTABLISH A STATEWIDE)
TOLL FREE CALLING PLAN)

CAUSE NO. RM 201000002

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Oklahoma Corporation Commission (Commission) proposes to adopt new Commission rules to establish a Statewide Toll Free Calling Plan as set forth in Oklahoma Administrative Code (OAC) 165:81.

According to the Public Utility Division Staff, proposed rules are necessary to ensure the continued availability of intrastate telecommunications services within the State of Oklahoma. Intrastate telecommunications services are sent, received and transmitted over the Public Switched Telephone Network (PSTN), a collection of interconnected privately-owned telephone networks. The continued operation of the PSTN is necessary for the provision, transport and delivery of all intrastate telecommunications services; including circuit-switched, wireless and Internet Protocol (IP) telecommunications services.

Intrastate telecommunication services are critical to the health, safety and welfare of the citizenry of the State of Oklahoma. The continued availability of intrastate telecommunications services is jeopardized by the challenging economic conditions of the State and the Nation. Intrastate telecommunications services are also necessary for the security and protection of the public. A modern, reliable, and sustainable intrastate telecommunications system is essential to Oklahoma families and businesses. Staff believes a Statewide Toll Free Calling Plan will benefit business development across the entire state and particularly in rural communities.

Staff reports the following:

(1) Revenues derived from the sale of retail telecommunications services, intercarrier compensation, and, in some instances, public support mechanisms including the Oklahoma Universal Service Fund (OUSF) and the Oklahoma High Cost Fund (HCF), are necessary for the continued operation of the PSTN and provision of intrastate telecommunications services within the State of Oklahoma. Presently, wireless and IP carriers and customers are not obligated to contribute to intrastate public support mechanisms on an equal footing with circuit-switched carriers and customers. The lack of public support obligations is a significant competitive advantage for wireless and IP carriers over circuit-switched carriers, to wit:

- a) Circuit-switched carriers contribute to both the OUSF and HCF;
- b) Wireless carriers contribute to the OUSF but do not contribute to the HCF; and
- c) IP carriers do not contribute to either the OUSF or the HCF.

(2) Revenues supporting the operation of the PSTN are declining due to an ongoing migration of customers from circuit-switched technologies to wireless and IP technologies. The migration of customers from circuit-switched technologies to wireless and IP technologies is fueled, in part, by the inequities in the regulatory treatment of the different telecommunications technologies. The decline in circuit-switched revenues from retail offerings and reduction of intercarrier compensation also causes stress on public support mechanisms (e.g., OUSF and HCF). The decline in PSTN revenues and stress on public support mechanisms threatens the continued availability of all intrastate telecommunications services within the State of Oklahoma.

The proposed new chapter regarding telecommunications, set forth in OAC 165:81, would implement: a "Statewide Toll Free Calling Plan;" intercarrier compensation reform; a mechanism to compensate carriers for the transport of intrastate interexchange telecommunications traffic; changes in the operation of the HCF; and such other changes as are necessary to implement a Statewide Toll Free Calling Plan. Some form of new rules should be implemented to ensure the continued availability of intrastate telecommunications services within the State of Oklahoma.

NOTICE IS FURTHER GIVEN that the Commission is the rulemaking entity, created by the Oklahoma Constitution, Art. IX, §15; and, that the Commission has jurisdiction to initiate this rulemaking pursuant to the Oklahoma Administrative Procedures Act, 75 O.S. §§250 *et seq.*; Art. IX, §18 of the Oklahoma Constitution; and 17 O.S. §§131 *et seq.*

NOTICE IS FURTHER GIVEN that the proposed rules, as drafted by Staff, will be available for public inspection on January 15, 2010 at the Commission's Oklahoma City Court Clerk's Office, located at 2101 N. Lincoln Blvd., Oklahoma City, OK 73105. The proposed rules will also be accessible on the Commission's website at <http://www.occeweb.com> and may be downloaded at no cost to the end user on the same date.

NOTICE IS HEREBY GIVEN that a Technical Conference will be held on **January 20, 2010**, at 10:00 a.m. in Room 301, Third Floor, Jim Thorpe Building, 2101 N. Lincoln Blvd., Oklahoma City, OK 73105. The purpose of the technical conference will be to discuss the proposed rules. Interested parties are invited to attend the conference and participate to the fullest extent possible. One or more of the Commissioners may be present at the technical conference and may participate in the dialogue with the rulemaking participants regarding the issues of the proposed rulemaking.

NOTICE IS FURTHER GIVEN that a Rule Impact Statement will be available for public inspection in the Commission's Court Clerk's Office, located at 2101 N. Lincoln Blvd., Oklahoma City, OK 73105, and on the Commission's website at <http://www.occeweb.com>, no later than fifteen (15) days after the date of publication of this Notice of Proposed Rulemaking.

NOTICE IS FURTHER GIVEN that the Commission invites all interested persons to submit comments regarding the proposed rules on or before **February 22, 2010**. Those persons interested in submitting comments should file an original and eight (8) copies of their comments, referring to the cause number above on the first page therein, with the Commission's Court Clerk's Office. The comments will be available for public inspection during regular business hours of the Court Clerk's Office, at 8:00 a.m. to 4:30 p.m., Monday through Friday.

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

The proposed rules may impose new or additional fees charged to regulated industries or modify the calculation of fees currently charged to regulated industries for public support mechanisms including the Oklahoma High Cost Fund.

Based upon a representation of Commission Staff, the Commission has made a determination that some of the proposed rules may have an adverse economic effect on small businesses. Pursuant to 75 O.S. §501 *et seq.*, the Small Business Regulatory Review Committee shall have a minimum of thirty (30) days in which to review the proposed rules. A copy of the Rule Impact Statement will be forwarded to the Small Business Regulatory Review Committee no later than (15) days after publication of this Notice of Proposed Rulemaking.

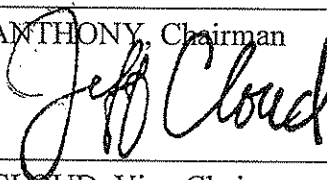
NOTICE IS FURTHER GIVEN that a public hearing on the proposed rulemaking will be held March 29, 2010, before the Commission *en banc* at 9:30 a.m. in Courtroom 301, Third Floor, Jim Thorpe Building, 2101 N. Lincoln Blvd, Oklahoma City, OK 73105.

NOTICE IS FURTHER GIVEN that questions regarding this proposed rulemaking should be directed to Lenora F. Burdine, Deputy General Counsel, or Don Schooler, Assistant General Counsel, Office of General Counsel, Room 400, Jim Thorpe Building, 2101 N. Lincoln Blvd., Oklahoma City, OK 73152-2000, or by phone (405) 521-2255.

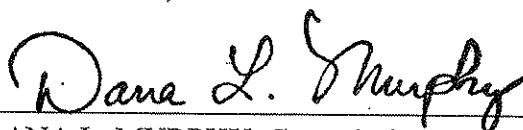
OKLAHOMA CORPORATION COMMISSION



BOB ANTHONY, Chairman




JEFF CLOUD, Vice-Chairman



DANA L. MURPHY, Commissioner

DONE AND PERFORMED THIS 12 DAY OF JANUARY, 2010, BY ORDER OF THE COMMISSION:



PEGGY MITCHELL, Commission Secretary