

**TITLE 165. CORPORATION COMMISSION**

**CHAPTER 59. OKLAHOMA UNIVERSAL SERVICE AND OKLAHOMA LIFELINE**

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CHAPTER 59. OKLAHOMA UNIVERSAL SERVICE AND LIFELINE

Subchapter	Section
1. General Provisions .....	165:59-1-1
3. Oklahoma Universal Service Fund.....	165:59-3-1
5. Lifeline Service [REVOKED].....	165:59-5-1
7. Special Universal Services .....	165:59-7-1
9. Oklahoma Lifeline Fund .....	165:59-9-1

[AUTHORITY: OKLA. CONST. art. IX, Section 18; 17 O.S. § 137.3; 17 O.S. § 139.101 et seq.]

[Source: Codified 7-1-97]

## SUBCHAPTER 1. GENERAL PROVISIONS

### Section

165:59-1-1.	Purpose and title
165:59-1-2.	Jurisdiction
165:59-1-3.	Application of rules
165:59-1-4.	Definitions
165:59-1-5.	Interpretation of rules
165:59-1-6.	Relief from rules
165:59-1-7.	Supremacy
165:59-1-8.	Controversy over rules
165:59-1-9.	Severability

## 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 also establishes the procedures for administration of the OUSF and the OLF.

[**Source:** Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1901, eff 7-1-98; Amended at 16 Ok Reg 2360, eff 7-1-99; Amended at 28 Ok Reg 2256, eff 7-25-11; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

### **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.

[**Source:** Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1901, eff 7-1-98; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

**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.
- (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.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1901, eff 7-1-98; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

**165:59-1-4. Definitions**

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.

**"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 or bassinet that is regularly maintained, staffed on a 24-hours basis, and immediately available for the care of patients.

**"Carrier of Last Resort"** means a telecommunications service provider as designated by the Commission pursuant to OAC 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.

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

**"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.

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

**"Oklahoma Universal Services"** means Primary Universal Service and Special Universal Services as defined 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.

**"Reimbursement"** means remuneration from the OUSF for Primary Universal Services and 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 a telecommunications service provider has authority to provide telecommunications services.

**"SETDA"** means the State Educational Technology Directors Association.

**"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.

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

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

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

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

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1901, eff 7-1-98; Amended at 18 Ok Reg 2448, eff 7-1-01; Amended at 20 Ok Reg 2318, eff 7-15-03; Amended at 22 Ok Reg 1819, eff 7-1-05; Amended at 28 Ok Reg 2256, eff 7-25-11; Amended at 30 Ok Reg 1582, eff 7-11-13; Amended at 31 Ok Reg 1087, eff 9-12-2014; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

### **165:59-1-5. Interpretation of rules**

The words contained in this Chapter shall be given their ordinary and customary meanings, with technical terms and words being construed as generally understood within the telecommunications industry, except where otherwise expressly provided.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97]

**165:59-1-6. Relief from rules**

Whenever compliance with any requirement of this Chapter would result in unreasonable hardship upon or excessive expense to a party or parties subject to the rules of this Chapter, the Commission may, upon application and for good cause shown, issue an order waiving or modifying the requirements of this Chapter. The Commission may grant temporary relief pending hearing.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97]

**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, 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.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1901, eff 7-1-98; Amended at 28 Ok Reg 2258, eff 7-25-11; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

**165:59-1-8. Controversy over rules**

Whenever a controversy exists in connection with the interpretation of the rules of this Chapter or their applicability, or any right or duty imposed thereby, the Commission, upon application of any interested person and after notice and hearing, will enter such order thereon as it may deem appropriate.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97]

**165:59-1-9. Severability**

- (a) Nothing in this Chapter shall relieve any entity from any of its duties under the laws of the State of Oklahoma or the United States.
- (b) This Chapter shall not be construed so as to enlarge, diminish, modify, or alter the jurisdiction, powers, or authority of the Commission.
- (c) If any provision of this Chapter is held invalid, such invalidity shall not affect the other provisions of this Chapter or their applicability provided, such other provisions can be given effect without the invalid provision or its applicability, and to this end, the provisions of this Chapter are declared to be severable.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97]

**SUBCHAPTER 3. OKLAHOMA UNIVERSAL SERVICE FUND****PART 1. OKLAHOMA UNIVERSAL SERVICES**

## Section

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

**PART 3. OKLAHOMA UNIVERSAL SERVICE FUND**

165:59-3-10. Use of the Oklahoma Universal Service Fund  
165:59-3-11. How the Oklahoma Universal Service Fund shall be funded  
165:59-3-12. Operational requirements and processes for the OUSF [REVOKED]  
165:59-3-13. Establishment of OUSF Assessment  
165:59-3-14. Eligibility to receive OUSF funding  
165:59-3-15. Relinquishment of OUSF support eligibility [REVOKED]  
165:59-3-16. Designation of eligible telecommunications carriers for unserved areas

**PART 5. ADMINISTRATION OF THE OUSF**

165:59-3-30. Administration of the Fund  
165:59-3-31. [RESERVED]  
165:59-3-32. Audits of the Fund  
165:59-3-33. [RESERVED]  
165:59-3-34. Resolution of disputes regarding contributions to the OUSF and OLF  
165:59-3-35. [RESERVED]  
165:59-3-36. Resolution of other disputes  
165:59-3-37. [RESERVED]  
165:59-3-38. Violations

**PART 7. CONTRIBUTIONS TO THE OUSF**

165:59-3-40. Contributors to the OUSF  
165:59-3-41. [RESERVED]  
165:59-3-42. Reporting requirements  
165:59-3-43. [RESERVED]  
165:59-3-44. Amount of contributions and charges assessed for the OUSF  
165:59-3-45. [RESERVED]  
165:59-3-46. Recovery of OUSF contributions

**PART 9. REQUEST FOR OUSF FUNDING**

165:59-3-60. Requests for funding from the OUSF  
165:59-3-61. Forms for requesting funding from the OUSF  
165:59-3-62. Procedures for requesting funding from the OUSF [REVOKED]  
165:59-3-63. [RESERVED]  
165:59-3-64. Identifying and measuring the level of OUSF funding  
165:59-3-65. [RESERVED]  
165:59-3-66. Procedures for OUSF administrative preapproval request

165:59-3-67	[RESERVED]
165:59-3-68	Procedures for requesting funding from the OUSF – Special Universal Services
165:59-3-69	[RESERVED]
165:59-3-70	Procedures for requesting funding from the OUSF – Primary Universal Services
165:59-3-71	[RESERVED]
165:59-3-72	Request for reconsideration procedures

### SUBCHAPTER 3. OKLAHOMA UNIVERSAL SERVICE FUND

#### PART 1. OKLAHOMA UNIVERSAL SERVICES

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

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1901, eff 7-1- 98; Amended at 32 Ok Reg 23, eff 8-27-15; Revoked at 34 Ok Reg 5, eff 8-12-16 (emergency); Revoked at 34 Ok Reg 1011, eff 9-11-2017]

#### PART 3. OKLAHOMA UNIVERSAL SERVICE FUND

##### **165:59-3-10. Use of the Oklahoma Universal Service Fund**

The Oklahoma Universal Service Fund is a state fund for demonstrated necessity or statutory entitlement. Funds from the Oklahoma Universal Service Fund may be sought as necessary to maintain rates for primary universal services that are reasonable and affordable, for special universal services, and for E911 and Technology Training Fund contributions, consistent with the Oklahoma Telecommunications Act.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1901, eff 7-1-98; Amended at 16 Ok Reg 2360, eff 7-1-99; Amended at 32 Ok Reg 23, eff 8-27-15]

##### **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.

[Source: Reserved at 14 Ok Reg 2562, eff 7-1-97; Added at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Added at 15 Ok Reg 1901, eff 7-1-98; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]



**165:59-3-12. Operational requirements and processes for the OUSF [REVOKED]**

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Revoked at 15 Ok Reg 1061, eff 1-6-98 (emergency); Amended at 15 Ok Reg 1901, eff 7-1-98; Revoked at 34 Ok Reg 5, eff 8-12-16 (emergency); Revoked at 34 Ok Reg 1011, eff 9-11-2017]

**165:59-3-13. Establishment of OUSF Assessment**

(a) The Administrator shall file a cause with the Commission's Court Clerk to establish or adjust the OUSF Assessment, as necessary, or on an annual basis, and assess the contributing providers required to contribute to the fund under 17 O.S. § 139.107. Notice of this filing shall be sent to all contributing providers via electronic mail to the contributing provider's contact information contained in their annual report.

(b) By posting on the Commission's website, the Administrator shall notify each contributing provider of the effective dates and rates of the ordered OUSF and OLF factors to be applied to OUSF Assessed Revenues.

(c) Contributing providers are to report revenues and make payment to the OUSF and OLF as described in OAC 165:59-3-44.

[Source: Reserved at 14 Ok Reg 2562, eff 7-1-97; Added at 15 Ok Reg 1061, eff 1-6-98 (emergency); Added at 15 Ok Reg 1901, eff 7-1-98; Amended at 28 Ok Reg 2259, eff 7-25-11; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

**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, 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.

(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 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 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, any eligible provider may seek OUSF Funding for the provision of Special Universal Services consistent with 17 O.S. § 139.109.1.

(h) Any eligible provider shall receive funding for any Special Universal Services provided 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 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.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1901, eff 7-1-98; Amended at 16 Ok Reg 2360, eff 7-1-99; Amended at 28 Ok Reg 2259, eff 7-25-11; Amended at 30 Ok Reg 1584, eff 7-11-13; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

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

[Source: Reserved at 14 Ok Reg 2562, eff 7-1-97; Added at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Added at 15 Ok Reg 1901, eff 7-1-98; Revoked at 34 Ok Reg 5, eff 8-12-16 (emergency); Revoked at 34 Ok Reg 1011, eff 9-11-2017]

#### **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 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:

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

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

### **PART 5. ADMINISTRATION OF THE OUSF**

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

(a) The OUSF Administrator, may as necessary, take all actions necessary to fulfill the objectives of the Oklahoma Telecommunications Act, including but not limited to, contracting

with a third party having no conflict of interest in the provisioning of telecommunications services for assistance with the administrative functions related to the OUSF.

(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.

(c) The OUSF Administrator and/or contracted agent shall administer the OUSF in accordance with this Subchapter and the Oklahoma Telecommunications Act.

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

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

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

(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 to ensure that the contributing providers are accurately reporting and making proper payments to the OUSF;

(5) Monitoring and assuring that OUSF funds received by the eligible local exchange telecommunications service providers and eligible providers are based on one of the categories for which reimbursement is allowed under the Oklahoma Telecommunications Act.

(6) Informally resolving disputes;

(7) Independently evaluate and review all Requests for OUSF Funding and OUSF administrative preapproval requests within time frames identified in the Oklahoma Telecommunications Act, and make a 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,

(8) Performing any other duties as required by law and/or this Chapter.

(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, pursuant to Article IX, Section 18 of the Oklahoma Constitution, and 51 O.S. § 24A.22, that 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 is hereby classified as confidential. All documents and information considered to be confidential must be clearly marked as such. All information classified as confidential shall be used by the OUSF Administrator, ALJ, any party to a Request for OUSF Funding or party to a request for reconsideration related to such Request, 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 receive or review information deemed confidential herein shall keep all such information confidential, and shall only use such data for purposes of administering the OUSF, evaluating a Request for OUSF Funding, and/or prosecuting a request for reconsideration of the Administrator's determination of OUSF Funding, 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 nondisclosure agreement, as posted on the Commission Website, or as otherwise agreed between the party requesting the information and the party receiving the request for confidential information.

(g) Pursuant to 51 O.S. § 24A.22, the Commission hereby does classify as confidential 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 conjunction with an audit of said eligible local exchange telecommunications service provider, eligible provider, OUSF Beneficiary, or contributing provider. 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 any filed cause after the party in the cause signs a nondisclosure agreement, as posted on the Commission Website, unless otherwise agreed to by the parties.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1901, eff 7-1-98; Amended at 20 Ok Reg 2320, eff 7-15-03; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

### **165:59-3-31. [RESERVED]**

[Source: Added at 14 Ok Reg 2562, eff 7-1-97]

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

(a) The OUSF shall be audited annually by a non-OUSF, 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.

(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.

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

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

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1901, eff 7-1-98; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

**165:59-3-33. [RESERVED]**

[Source: Reserved at 14 Ok Reg 2562, eff 7-1-97]

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

(a) Any 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 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 responsibility for resolving the dispute.

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

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

(c) If the disputing contributing provider prevails in its dispute, the 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.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1901, eff 7-1-98; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

**165:59-3-35. [RESERVED]**

[Source: Reserved at 14 Ok Reg 2562, eff 7-1-97]

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

(a) Any adversely impacted party may dispute the actions of 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.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1901, eff 7-1-98; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

### **165:59-3-37. [RESERVED]**

[Source: Reserved at 14 Ok Reg 2562, eff 7-1-97]

### **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.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1901, eff 7-1-98; Amended at 30 Ok Reg 1586, eff 7-11-13; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

## **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.
- (b) Each contributing provider 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. Each contributing provider shall maintain records and documentation 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.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1901, eff 7-1-98; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

#### **165:59-3-41. [Reserved]**

[Source: Added at 14 Ok Reg 2562, eff 7-1-97]

#### **165:59-3-42. Reporting requirements**

Each 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 contributing provider.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1901, eff 7-1-98; Amended at 16 Ok Reg 2360, eff 7-1-99; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

#### **165:59-3-43. [RESERVED]**

[Source: Added at 14 Ok Reg 2562, eff 7-1-97]

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

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

(b) The OUSF Administrator or contracted agent shall, based on the amount to be contributed to the OUSF, calculate the contribution required to be made to the OUSF by each 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) The fiscal reporting year shall be July 1 through June 30.

(d) Each contributing provider shall pay its contribution directly to the OUSF Administrator, or contracted agent, as directed by the OUSF Administrator, on a monthly or annual basis, conditioned upon an annual revenue threshold established by the OUSF Administrator.

(e) If the contributing provider qualifies to pay its contribution annually, payment shall be made at the beginning of the fiscal year, and is past due after August 31. If the contributing provider underestimates its annual contribution by 15% or greater, the contributing provider shall be required to make its contributions monthly for the next fiscal reporting year, and underpayments will be subject to interest.



- (f) If the contributing provider qualifies to pay its contribution monthly, the contributing provider shall report the prior calendar month's revenues, and pay on those revenues, by the end of the month, each month, without skipping a month.
- (g) Interest shall be charged on any payment not received by the reporting due date at the rate of 1.5% monthly.
- (h) The payment shall be payable to the OUSF. All contributions and interest payments shall be deposited into the OUSF account established by the OUSF Administrator and/or contracted agent.
- (i) All contributions shall be subject to audit by the OUSF Administrator, or its contracted agent.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1901, eff 7-1-98; Amended at 16 Ok Reg 2360, eff 7-1-99; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

#### **165:59-3-45. [RESERVED]**

[Source: Added at 14 Ok Reg 2562, eff 7-1-97]

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

- (a) A 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 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 contributing provider's OUSF contributions. 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 contributing provider's OUSF recovery from its customers, provided the 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 contributing provider's method of recovery from its customers, after notice and hearing.
- (d) In the event a 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.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1901, eff 7-1-98; Amended at 16 Ok Reg 2360, eff 7-1-99; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

### **PART 9. REQUEST FOR OUSF FUNDING**

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

- (a) Eligible local exchange telecommunications service providers and eligible providers may request funding from the OUSF as allowed by the Oklahoma Telecommunications Act.
- (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 providers and eligible local exchange telecommunications service 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.
- (d) 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.
- (e) The OUSF Administrator 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.
- (f) Requests for OUSF funding for the provision of Special Universal Service, including OUSF administrative preapproval requests, shall contain the following caption: In the matter of the request by (name of school/library/eligible healthcare provider /consortium) of (name of city / library system or city / health care system or city / Consortium lead) for funding from the Oklahoma Universal Service Fund.
- (g) Requests for OUSF funding for primary universal service shall contain the following caption: In the matter of the request by (name of eligible telecommunications service provider) for the (insert basis of request) for funding from the Oklahoma Universal Service Fund.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1901, eff 7-1-98; Amended at 16 Ok Reg 2360, eff 7-1-99; Amended at 30 Ok Reg 1586, eff 7-11-13; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

**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 annually, for requests made for funding years prior to the funding year beginning July 1 annually, 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 within fifteen (15) calendar 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) calendar days of the filing of the Application.
- (d) The caption for filing an objection shall be as follows: In the matter of the application of (name of party filing the objection) objecting to the OUSF Administrator's form.

(e) 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) calendar days 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.

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

[Source: Reserved at 14 Ok Reg 2562, eff 7-1-97; Added at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Added at 15 Ok Reg 1901, eff 7-1-98; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

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

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1061, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1901, eff 7-1-98; Amended at 16 Ok Reg 2360, eff 7-1-99; Amended at 18 Ok Reg 2448, eff 7-1-01; Amended at 20 Ok Reg 2321, eff 7-15-03; Amended at 28 Ok Reg 2260, eff 7-25-11, Amended at 29 Ok Reg 1583, eff 7-12-12; Amended at 30 Ok Reg 1587, eff 7-11-13; Amended at 32 Ok Reg 23, eff 8-27-15; Revoked at 34 Ok Reg 5, eff 8-12-16 (emergency); Revoked at 34 Ok Reg 1011, eff 9-11-2017]

### **165:59-3-63. [RESERVED]**

[Source: Reserved at 15 Ok Reg 1061, eff 1-6-98 (emergency); Reserved at 15 Ok Reg 1901, eff 7-1-98]

### **165:59-3-64. Identifying and measuring the level of OUSF funding**

(a) In identifying and measuring the costs of providing primary universal services, exclusively for the purpose of determining OUSF funding levels under 17 O.S. § 139.106, the eligible local exchange telecommunications service provider serving less than seventy-five thousand (75,000) access lines shall, at its option:

(1) Calculate such costs by including all embedded investments and expenses incurred by the eligible local exchange telecommunications service provider in the provision of primary universal service, and may identify high-cost areas within the local exchange area it serves and perform a fully distributed allocation of embedded costs and identification of associated primary universal service revenue. The cost study shall identify any investments and associated expenses jointly used for the provision of primary universal service and any other services and provide a reasonable allocation of those investments and expenses. Such calculation may be made using fully distributed FCC Parts 32, 36, and 64 costs, if such Parts

are applicable. The high-cost area shall be no smaller than a single exchange, wire center, or census block group, chosen at the option of the eligible-local exchange telecommunications service provider; or,

(2) Adopt the cost studies approved by the Commission for a local exchange telecommunications service provider that serves seventy-five thousand (75,000) or more access lines; or,

(3) Adopt such other costing or measurement methodology as may be established for such purpose by the FCC pursuant to Section 254 of the Federal Telecommunications Act of 1996.

(b) In identifying and measuring the cost of providing primary universal services, and exclusively for the purpose of determining OUSF funding levels pursuant to 17 O.S. § 139.106, each ILEC which serves seventy-five thousand (75,000) or more access lines and each CLEC shall identify high-cost areas within the local exchange and perform a cost study using a Commission-approved methodology from those identified in subsection (a) of this Section. The high-cost area shall be no smaller than a single exchange, wire center or census block group chosen at the option of the eligible ILEC or CLEC. If the Commission fails to approve the selected methodology within one hundred twenty (120) calendar days of the filing of the selection, the selected methodology shall be deemed approved.

(c) Any cause filed pursuant to 17 O.S. § 139.106(G) shall include the most recent cost study, and an order reflecting the amount to be reimbursed shall only be applicable for a twelve (12) month period, unless otherwise determined by the OUSF Administrator or ordered by the Commission.

[Source: Added at 15 Ok Reg 1061, eff 1-6-98 (emergency); Added at 15 Ok Reg 1901, eff 7-1-98; Amended at 30 Ok Reg 1589, eff 7-11-13; Amended at 34 Ok Reg 1011, eff 9-11-2017]

### **165:59-3-65. [RESERVED]**

[Source: Reserved at 34 Ok Reg 5, eff 8-12-16 (emergency); Reserved at 34 Ok Reg 1011, eff 9-11-2017]

### **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 a "Request for OUSF Preapproval" to the OUSF Administrator to determine eligible services and credit amounts for the upcoming funding year.

(2) A Request for OUSF Preapproval may be submitted at any time by sending via electronic mail a digital copy of all required documentation to the OUSF Administrator, to the email address posted on the Commission's website, until such time as the Commission implements the electronic filing system. Once the electronic filing system is in place, the OUSF Beneficiary shall file all required documentation using the electronic filing system.

(3) The Request for OUSF Preapproval shall include the following:

(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 Request for OUSF Preapproval may include any documentation that would assist the OUSF Administrator in independently evaluating the request.
- (5) The OUSF Administrator and/or contracted agent shall independently evaluate and review the Request for OUSF Preapproval, including all provided documentation, and issue an OUSF preapproval funding letter, without Commission order, to the OUSF Beneficiary within ninety (90) calendar days of receipt of the Request for OUSF Preapproval. The preapproval funding letter shall be electronically delivered to the OUSF Beneficiary.
- (6) A Request for OUSF Preapproval 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.
- (7) After a preapproval funding letter has been issued, an OUSF Beneficiary may submit a new Request for OUSF Preapproval to provide corrections or additional information per this Chapter; however, a new Request shall be submitted for each funding year. This new Request shall be submitted by sending via electronic mail a digital copy of all required documentation to the OUSF Administrator, to the email address posted on the Commission's website, until such time as the Commission implements the electronic filing system. Once the electronic filing system is in place, the OUSF Beneficiary shall file all required documentation using the electronic filing system.
- (8) Unless an OUSF Beneficiary receives preapproval of a Request for OUSF Preapproval, 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 Request for OUSF Preapproval shall require either a new Request for OUSF Preapproval or a Request for OUSF Funding to be filed.
- (11) Variance from the terms approved in the OUSF preapproval funding letter, which could have impacted bid selection may make the previously issued OUSF preapproval funding letter null and void.
- (12) A Request for OUSF Preapproval submitted by an OUSF Beneficiary shall be signed by an authorized agent of the OUSF Beneficiary, or by the attorney for the OUSF Beneficiary.

[Source: Added at 34 Ok Reg 5, eff 8-12-16 (emergency); Added at 34 Ok Reg 1011, eff 9-11-2017]

**165:59-3-67. [RESERVED]**

[Source: Reserved at 34 Ok Reg 5, eff 8-12-16 (emergency); Reserved at 34 Ok Reg 1011, eff 9-11-2017]

**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" and "Notice of Request for OUSF Funding" with the Commission's Court Clerk. On the date of filing the Request for OUSF Funding, the eligible provider shall deliver a filed copy of the Request for OUSF Funding to the OUSF Administrator for processing.

(1) If the OUSF Beneficiary filed a Request for OUSF Preapproval, and a preapproval funding letter was issued by the OUSF Administrator, then the eligible provider must file the Request for OUSF Funding in the same cause number as the Request for OUSF Preapproval.

(2) If the Request for OUSF Funding requests anything different than what is stated in the OUSF preapproval funding letter, then the eligible provider shall file the Request for OUSF Funding as a new cause number.

(b) 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.

(c) 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.

(d) 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 at any time prior to the issuance of the Determination. Upon the filing of a Withdrawal of Request for OUSF Funding, the Commission's Court Clerk shall close the file, without Commission order. If a new request is filed, it shall be filed under a new cause number.

(e) 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.

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

(g) 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.

(h) 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.

- (i) 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, the Oklahoma Attorney General, and the OUSF Beneficiary.
  - (2) Provide Notice of the Request for OUSF Funding to the contributing providers by providing an electronic copy of such Notice to the OUSF Administrator on the date the eligible provider files its Request for OUSF Funding with the Commission's Court Clerk, for posting on the Commission's website. The OUSF Administrator will then place the Notice on the Commission's 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.
- (j) The OUSF Administrator and/or its contracted agent shall independently evaluate, review, and determine the accuracy of the complete request and issue a Determination of the eligibility for funds, within sixty (60) calendar days if an OUSF preapproval funding letter was issued, or within ninety (90) calendar 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 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) calendar days after it is filed. If the OUSF Beneficiary received an OUSF preapproval funding letter and subsequently requested additional bids that were not reviewed by the OUSF Administrator during the preapproval process, then the OUSF preapproval funding letter is null and void.
- (k) Any affected party, as defined in 17 O.S. § 139.106(D)(5), may file a request for reconsideration within fifteen (15) calendar 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 sixteenth (16) calendar day after the Determination is filed, and the cause with the Commission's Court Clerk shall automatically be closed upon the filing of a Notice of Disbursement by the OUSF Administrator. The OUSF Administrator or contracted agent shall issue payment within forty-five (45) days of the previously mentioned sixteenth (16) 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 eligible provider can determine the impact of occurrence of the circumstance giving rise to the request; however, if an OUSF Beneficiary has obtained an OUSF preapproval funding letter from the OUSF Administrator, the eligible provider shall make a request for funding within sixty (60) calendar days of the start of service.
- (n) 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.

(o) 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, change in E-rate discount, or price. Any change to the previously approved Special Universal Services will require approval from the OUSF Administrator and/or contracted 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) calendar 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) calendar 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.

(p) 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) business days prior to disconnection, or immediately upon receipt of a request for disconnection, if the request is less than fifteen (15) business days prior to disconnection.

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

(r) A Request for OUSF Funding, pursuant to this Section, shall be signed by an authorized agent of the eligible provider, or by the attorney for the eligible provider.

[Source: Added at 34 Ok Reg 5, eff 8-12-16 (emergency); Added at 34 Ok Reg 1011, eff 9-11-2017]

### **165:59-3-69. [RESERVED]**

[Source: Reserved at 34 Ok Reg 5, eff 8-12-16 (emergency); Reserved at 34 Ok Reg 1011, eff 9-11-2017]

### **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 for Primary Universal Service by filing a "Request for OUSF Funding" and "Notice of Request for OUSF Funding" with the Commission's Court Clerk. On the date of filing the Request for OUSF Funding, the eligible local exchange telecommunications service provider shall deliver a filed copy of the Request for OUSF Funding to the OUSF Administrator for processing.

(b) Unless a waiver is granted by the OUSF Administrator, the following minimum filing requirements are necessary for causes filed pursuant to 17 O.S. § 139.106(G), and must be made available at the time of filing:

(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) A chart of corporate organization listing all employees, and detailing any affiliate relationships;
- (5) A list of affiliates, a description of the service(s) or goods provided to or by the requesting eligible telecommunications service provider for each affiliate, and the total expense charged to the requesting eligible local exchange telecommunications service provider by each affiliate in sufficient detail to demonstrate that any affiliate company utilizing employees or assets of the company are allocated or reimbursed in accordance with 47 C.F.R. 32.27. This information shall be provided for the reimbursement year and the previous three (3) years (4 total), and shall include, but not be limited to, all contracts, memorandum, timesheets, calculations, and studies;
- (6) A written description and documentation showing how costs are separated for each regulated and non-regulated service that the requesting eligible local exchange telecommunications service provider provides to, or receives from, any affiliate that is associated with the Request for OUSF Funding. This description must show compliance with the cost allocation standards and procedures as set forth in 47 C.F.R. 64.901. This information shall be provided for the reimbursement year and the previous three (3) years (4 total), and shall include, but not be limited to, all contracts, memorandum, timesheets, calculations, and studies;
- (7) If applicable, copies of the eligible local exchange telecommunications service provider's Cost Allocation Manual (CAM), to include any changes to the CAM for the last three (3) years, including documentation supporting the cost allocation procedures and a current example of the application of the CAM's manual. If a CAM is unavailable, similar documentation must be provided;
- (8) The most recent three (3) years preceding the request of audited financial statements, or if not subject to an audit, then reviewed financial statements, (including balance sheet, income statement, statement of cash flows accompanying notes, and any associated management letter);
- (9) A description of network facilities, identifying all facilities included in the Request for OUSF Funding, with actual documentation available upon request by the OUSF Administrator;
- (10) A description of the cost and accounting methodologies used to support the Request for OUSF Funding;
- (11) A trial balance and general ledger in Excel format, or other format as agreed to by the Administrator;
- (12) If applicable, a fully distributed cost study based on the FCC's Part 32, 36 and 64; provide plant reserve, rate base, income (revenue, expenses, and taxes), and other schedules included in the filing made with NECA or the FCC; a schedule of separations cost study for the reimbursement year. Underlying work-papers to be available onsite;
- (13) Copies of the company's annual Federal Universal Service Fund (USF) High Cost Loop Data Collection forms for the reimbursement year and the previous three (3) years (4 total);
- (14) The total number of full-time and part-time employees, officers, and/or contractors to include a listing of each of the above positions that includes title, duties, responsibilities,

wages and/or salaries and benefits for the reimbursement year and the previous three (3) years (4 total);

(15) A list of expenses sought, including prior period adjustments and/or contingent liabilities that were reported on the eligible local exchange telecommunications service provider's books and records and are part of this request, including but not limited to any:

- (A) reimbursed employee business expense, including travel, mileage, car rental, lodging, meals, etc.;
- (B) lobbying;
- (C) listing of all legal services and fees by law firm;
- (D) advertising expenses;
- (E) external relation costs;
- (F) community outreach;
- (G) entertainment;
- (H) food, including travel, normal business, and company events;
- (I) political contributions;
- (J) charitable donations;
- (K) penalties for fines or violations;
- (L) membership fees and dues;
- (M) gifts.

(16) The Federal tax classification (C-Corp, Sub-Chapter S, Partnership, etc.) of the eligible local exchange telecommunications service provider, and copies of the eligible local exchange telecommunications service provider's Federal and State tax returns for the reimbursement year and the previous three (3) years (4 total);

(17) A Description of the time tracking and reporting methods used by the eligible local exchange telecommunications service provider to distribute payroll dollars between regulated and non-regulated affiliates. Provide all supporting documentation for the reimbursement year and the previous three (3) years (4 total);

(18) A list of plant in-service retirements for the reimbursement year and the three (3) years prior to the reimbursement year (4 total);

(19) A plant in-service schedule by account that provides existing plant and additions for the reimbursement year and the three (3) years prior to the reimbursement year (4 total);

(20) Listing by account of all revenues, including aggregate customer revenues by category (residential, business, wholesale, etc.), that were used to off-set the eligible local exchange telecommunications service provider's OUSF funding request. This should include any amount received from the Federal USF, OUSF, and any other federal or state funding sources;

(21) The total number of customers by category (residential, business, wholesale, etc.) for the reimbursement year and the three (3) years prior to the reimbursement year (4 total);

(22) A copy of the eligible local exchange telecommunications service provider's regulated Continuing Property Records (CPR). If the CPRs do not tie to the general ledger, provide a reconciliation of the differences; and

(23) A list and copies of any audits or reviews to include letters, reports, memorandum, etc. conducted by the National Exchange Carriers Association (NECA), USAC, or FCC conducted during the reimbursement year and three (3) years prior to the reimbursement year (4 total).

(c) Unless a waiver is granted by the OUSF Administrator, the following minimum filing requirements are necessary for causes filed pursuant to 17 O.S. § 139.106(K), and must be made available at the time of filing:

- (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) Documentation necessary to substantiate the requested funding; and
- (5) The most recently filed jurisdictional cost study;
- (6) For highway relocation causes, the additional following minimum filing requirements are necessary:
  - (A) Copies of all bids;
  - (B) The request for proposal;
  - (C) Copies of all invoices and work orders;
  - (D) Documentation showing internal material accounting;
  - (E) Documentation showing internal labor accounting, including time sheets, and separate documentation showing accounting of overtime work;
  - (F) A certificate of completion of the relocation.

(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 at any time prior to the issuance of the Determination. Upon the filing of a Withdrawal of Request for OUSF Funding, the Commission's Court Clerk shall close the file, without Commission order. If a new request is filed, it shall be filed under a new cause number.

(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 independently evaluated and 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 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 Notice to the OUSF Administrator on the date the eligible local exchange telecommunications service provider files its Request for OUSF Funding with the Commission's Court Clerk, for posting on the Commission website. The OUSF Administrator will then place the Notice on the Commission website within five (5) business days.
- (j) The OUSF Administrator and/or contracted agent shall independently evaluate, 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 ninety (90) calendar 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 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) calendar 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 fifteen (15) calendar 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 sixteenth (16) calendar day after the Determination is filed, and the cause with the Commission's Court Clerk shall automatically be closed upon the filing of a Notice of Disbursement by the OUSF Administrator. The OUSF Administrator or contracted agent shall issue payment within forty-five (45) calendar days of the previously mentioned sixteenth (16) day, without an order of the Commission.
- (m) Unless good cause is shown, any Request for OUSF Funding pursuant to this Section should be made within a reasonable time from the date the requesting local exchange telecommunications service provider can determine the impact of occurrence of the circumstance giving rise to the request, including receipt or notification of alternative funding designed to support universal service. However, this shall neither preclude a local exchange telecommunications service provider from filing a Request for OUSF Funding, nor shall it preclude such a Request from being processed, prior to the time a final decision is made regarding alternative funding from a program designed to support universal service.
- (n) A Request for OUSF Funding, pursuant to this Section, shall be signed by an attorney for the eligible local exchange telecommunications service provider.

[Source: Added at 34 Ok Reg 5, eff 8-12-16 (emergency); Added at 34 Ok Reg 1011, eff 9-11-2017]

**165:59-3-71. [RESERVED]**

[Source: Reserved at 34 Ok Reg 5, eff 8-12-16 (emergency); Reserved at 34 Ok Reg 1011, eff 9-

11-2017]

**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. Any party filing a Request for Reconsideration must be represented by an attorney, as defined in OAC 165:5-1-3.

(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, which is at least five (5) business days after the date of filing, unless the parties agree or 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 cause with the Commission's Court Clerk, 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 Commission's Court Clerk within fifteen (15) calendar days of the Request for Reconsideration, and provided to all parties of record on the same day it is filed.

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

(f) During the prehearing conference, the ALJ shall identify any additional requirements for a procedural schedule, including scheduling a hearing on the Request for Reconsideration, if deemed necessary by the ALJ. The parties shall identify all witnesses or potential witnesses who will provide testimony, and all witnesses or potential witnesses shall submit prefiled testimony. The ALJ may determine that a hearing on the Request for Reconsideration is not needed for causes without material disputes of fact or if all parties waive cross-examination. The hearing on the Request for Reconsideration 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 Request for Reconsideration. If the ALJ determines no hearing on the Request for Reconsideration 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).

(j) A Request for Reconsideration may be withdrawn at any time prior to opening of the record in the Hearing on the Request for Reconsideration by filing a Withdrawal of Request for Reconsideration with the Commission's Court Clerk. Upon filing a Withdrawal of Request for Reconsideration, the Cause shall be closed by the Commission's Court Clerk, without a Commission order, and payment shall be made within forty-five (45) calendar days after filing the Withdrawal of Request for Reconsideration.

(k) If the Commission does not issue a final order within thirty (30) calendar days from the date the Request for Reconsideration is filed, the Request shall be deemed approved on an interim basis subject to refund with interest. To obtain interim funding, the eligible local exchange telecommunications service provider or the eligible provider must file notice with the Commission's Court Clerk of its intention to seek interim funding. The OUSF Administrator shall pay the interim funding within forty-five (45) calendar days upon receipt of notice.

[Source: Added at 34 Ok Reg 5, eff 8-12-16 (emergency); Added at 34 Ok Reg 1011, eff 9-11-2017]

## **SUBCHAPTER 5. LIFELINE SERVICE [REVOKED]**

### Section

165:59-5-1. Lifeline Service Program [REVOKED]

165:59-5-2. [RESERVED]

165:59-5-3. Audits [REVOKED]

165:59-5-4. [RESERVED]

165:59-5-5. Recertification [REVOKED]

## **SUBCHAPTER 5. LIFELINE SERVICE [REVOKED]**

### **165:59-5-1. Lifeline Service Program. [REVOKED]**

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Revoked at 15 Ok Reg 1195, eff 1-6-98 (emergency); Revoked at 15 Ok Reg 1915, eff 7-1-98]

### **165:59-5-2. [RESERVED]**

[Source: Reserved at 14 Ok Reg 2562, eff 7-1-97]

### **165:59-5-3. Audits [REVOKED]**

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Revoked at 15 Ok Reg 1195, eff 1-6-98 (emergency); Revoked at 15 Ok Reg 1914, eff 7-1-98]

**165:59-5-4. [RESERVED]**

[Source: Reserved at 14 Ok Reg 2562, eff 7-1-97]

**165:59-5-5. Recertification [REVOKED]**

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Revoked at 15 Ok Reg 1195, eff 1-6-98 (emergency); Revoked at 15 Ok Reg 1915, eff 7-1-98]

**SUBCHAPTER 7. SPECIAL UNIVERSAL SERVICES**

Section

- 165:59-7-1. Reimbursement from the OUSF for Special Universal Service
- 165:59-7-2. [RESERVED]
- 165:59-7-3. Criteria for demonstration of need for Special Universal Services [REVOKED]
- 165:59-7-4. [RESERVED]
- 165:59-7-5. Toll-free calling to not-for-profit hospitals [REVOKED]
- 165:59-7-6. Telemedicine access for eligible healthcare entities
- 165:59-7-7. Toll-free calling to public schools and public libraries [REVOKED]
- 165:59-7-8. Internet access to public schools and libraries
- 165:59-7-9. County seats [REVOKED]
- 165:59-7-10. Other sources of funds
- 165:59-7-11. Dispute resolution
- 165:59-7-12. [RESERVED]
- 165:59-7-13. Reselling of Special Universal Services Prohibited
- 165:59-7-14. [RESERVED]
- 165:59-7-15. Provision of Special Universal Services
- 165:59-7-16. [RESERVED]
- 165:59-7-17. Disclosure on bill regarding provided Special Universal Services
- 165:59-7-18. [RESERVED]
- 165:59-7-19. Competitive Bidding

**SUBCHAPTER 7. SPECIAL UNIVERSAL SERVICES**

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

(a) An OUSF Beneficiary 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 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 shall make every reasonable effort to obtain funding from another state and/or federal fund designated to support special universal service. The OUSF Beneficiary shall provide the OUSF Administrator with information regarding the 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 OUSF Beneficiary did not request such funding. Failure to provide such documentation may result in the 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) Completing alternative funding requests in a manner that results in reduced alternative funding, for which the OUSF Beneficiary would have otherwise been eligible, may reduce OUSF funding.

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

(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 schools and libraries for the balance not paid by 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); however, if the eligible provider is unable to provision the eligible bandwidth using a single access line, the OUSF Beneficiary may choose to employ multiple access lines to provision the eligible bandwidth level established by the SETDA standard, as long as all lines are provisioned by the same eligible provider. The OUSF Administrator may waive this requirement for good cause shown.

(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) calendar days.

(5) 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, inclusive of all non-recurring eligible charges, for the eligible bandwidth range of 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%.



- (6) The OUSF Beneficiary's request for bids shall clearly identify the minimum and a maximum bandwidth at standard available levels as suggested in guidelines promulgated by the FCC or Commission rules.
  - (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 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.
  - (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) business days of the payment report being approved by the OUSF Administrator.
  - (10) Monthly recurring amounts or other funding related changes (e.g. level of bandwidth, or changes in E-rate discount amount) 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.
- (d) 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); however, the eligible healthcare entity may choose to employ multiple access lines to provision the eligible bandwidth level established by the FCC, and as stated in OAC 165:59-7-6(c), as long as all lines are provisioned by the same eligible provider.
  - (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) calendar 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, inclusive of all non-recurring eligible charges, for the eligible bandwidth range provided in OAC 165:59-7-6(c) of 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) business 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 Commission's Court Clerk 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.

(e) If a Request for Reconsideration is filed and subsequently withdrawn, the OUSF Administrator will pay the determined amount no later than forty-five (45) calendar days after the date the Request for Reconsideration is withdrawn.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1199, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1919, eff 7-1-98; Amended at 28 Ok Reg 2261, eff 7-25-

11, Amended at 29 Ok Reg 1583, eff 7-12-12; Amended at 30 Ok Reg 1589, eff 7-11-13; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

**165:59-7-2. [RESERVED]**

[Source: Reserved at 14 Ok Reg 2562, eff 7-1-97]

**165:59-7-3. Criteria for demonstration of need for Special Universal Services [REVOKED]**

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Revoked at 15 Ok Reg 1199, eff 1-6-98 (emergency); Amended at 15 Ok Reg 1919, eff 7-1-98; Revoked at 34 Ok Reg 5, eff 8-12-16 (emergency); Revoked at 34 Ok Reg 1011, eff 9-11-2017]

**165:59-7-4. [RESERVED]**

[Source: Reserved at 14 Ok Reg 2562, eff 7-1-97]

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

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1199, eff 1-6-98 (emergency); Amended at 15 Ok Reg 1919, eff 7-1-98; Amended at 18 Ok Reg 2448, eff 7-1-01; Revoked at 34 Ok Reg 5, eff 8-12-16 (emergency); Revoked at 34 Ok Reg 1011, eff 9-11-2017]

**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 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 competitive 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 eligible provider shall, by itself or in conjunction with another provider of telecommunications services, provide Special Universal Services to the eligible healthcare entity.

(c) Special Universal Services to an eligible healthcare entity include the provision of bandwidth per standards as recommended by the FCC 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 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 those which are 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.

(G) The eligible healthcare entities, identified above in (A) through (F), which support other eligible healthcare entities as a central location or host, may request additional bandwidth per supported location of up to twenty five percent (25%) of the supported eligible healthcare entity's eligible bandwidth.

(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 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 eligible provider providing service to an eligible healthcare entity.

(f) The written request by an authorized representative of an eligible healthcare entity to an eligible provider shall be in the form and content approved by the OUSF Administrator.

(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 to follow through and complete the process for Rural Health Care Program funding.

(i) Completing alternative funding requests in a manner that results in reduced alternative funding, for which the OUSF Beneficiary would have otherwise been eligible, may reduce OUSF funding.

(j) 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) calendar 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 the OUSF Administrator 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 the OUSF Administrator the FCC Form 462 and associated network cost worksheet, and Funding Commitment Letter.

[Source: Reserved at 14 Ok Reg 2562, eff 7-1-97; Added at 18 Ok Reg 2448, eff 7-1- 01; Amended at 22 Ok Reg 1821, eff 7-1-05, Amended at 29 Ok Reg 1583, eff 7-12-12; Amended at 30 Ok Reg 1589, eff 7-11-13; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

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

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1199, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1919, eff 7-1-98; Revoked at 34 Ok Reg 5, eff 8-12-16 (emergency); Revoked at 34 Ok Reg 1011, eff 9-11-2017]

#### **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) 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 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 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.

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

(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.

(h) The eligible provider shall update the OUSF Administrator through the monthly payment process if E-rate funding is discontinued, for any reason, within thirty (30) calendar days of receiving notification from USAC.

(i) The Commission encourages public schools to request sufficient bandwidth to achieve the school's educational goals.

[Source: Reserved at 14 Ok Reg 2562, Eff 7-1-97; Added at 15 Ok Reg 1199, eff 1-6- 98 (emergency); Added at 15 Ok Reg 1919, eff 7-1-98; Amended at 16 Ok Reg 2360, eff 7-1-99; Amended at 28 Ok Reg 2261, eff 7-25-11; Amended at 30 Ok Reg 1590, eff 7-11-13; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

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

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1199, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1919, eff 7-1-98; Revoked at 34 Ok Reg 5, eff 8-12-16 (emergency); Revoked at 34 Ok Reg 1011, eff 9-11-2017]

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

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

(b) Completing alternative funding requests in a manner that results in reduced alternative funding, for which the OUSF Beneficiary would have otherwise been eligible, may reduce OUSF funding.

(c) 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.

[Source: Reserved at 14 Ok Reg 2562, eff 7-1-97; Added at 18 Ok Reg 2448, eff 7-1- 01; Amended at 28 Ok Reg 2262, eff 7-25-11; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

**165:59-7-11. Dispute resolution**

Any dispute(s) regarding any Special Universal Service shall be resolved pursuant to OAC 165:59-3-36.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1199, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1919, eff 7-1-98]

**165:59-7-12. [RESERVED]**

[Source: Reserved at 14 Ok Reg 2562, eff 7-1-97]

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

Special Universal Services purchased from an eligible provider of Special Universal Services shall not be sold, resold or transferred in consideration for money or any other thing of value.

[Source: Added at 14 Ok Reg 2562, eff 7-1-97; Amended at 15 Ok Reg 1199, eff 1-6- 98 (emergency); Amended at 15 Ok Reg 1919, eff 7-1-98; Amended at 22 Ok Reg 1822, eff 7-1-05; Amended at 28 Ok Reg 2262, eff 7-25-11; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

**165:59-7-14. [RESERVED]**

[Source: Reserved at 15 Ok Reg 1199, eff 1-6-98 (emergency); Reserved at 15 Ok Reg 1919, eff 7-1-98]

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

(a) After compliance with the Oklahoma Telecommunications Act, and upon receipt of a written request by an OUSF Beneficiary, the eligible provider 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 shall immediately notify the OUSF Beneficiary 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 OUSF Administrator of the reason for the delay upon becoming aware of the delay, and the anticipated completion date of the request for service.

[Source: Added at 15 Ok Reg 1199, eff 1-6-98 (emergency); Added at 15 Ok Reg 1919, eff 7-1-98; Amended at 28 Ok Reg 2262, eff 7-25-11; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

**165:59-7-16. [RESERVED]**

[Source: Reserved at 15 Ok Reg 1199, eff 1-6-98 (emergency); Reserved at 15 Ok Reg 1919, eff 7-1-98]

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

(a) Each eligible provider shall render a bill to the OUSF Beneficiary regarding said Special Universal Services. The bill shall reflect the provider's itemized charges for the provisioning of Special Universal Services.

(b) Prior to signing a contract with an OUSF Beneficiary, the eligible provider shall provide 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.

[Source: Added at 15 Ok Reg 1199, eff 1-6-98 (emergency); Added at 15 Ok Reg 1919, eff 7-1-98; Amended at 16 Ok Reg 2360, eff 7-1-99; Amended at 28 Ok Reg 2262, eff 7-25-11; Amended at 30 Ok Reg 1590, eff 7-11-13; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]



**165:59-7-18. [RESERVED]**

[Source: Reserved at 34 Ok Reg 5, eff 8-12-16 (emergency); Reserved at 34 Ok Reg 1011, eff 9-11-2017]

**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) To avoid bid structuring, the bid request shall clearly identify the requested bandwidth range, inclusive of the eligible bandwidth limit, of the OUSF Beneficiary, and shall include a minimum and a maximum bandwidth at standard available levels as suggested in guidelines promulgated by the FCC or Commission rules.

(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.

(d) An existing contract, selected by the OUSF Beneficiary for comparison to received bids, shall be considered as being submitted during the same bidding period as the awarded bid.

[Source: Added at 34 Ok Reg 5, eff 8-12-16 (emergency); Added at 34 Ok Reg 1011, eff 9-11-2017]

**165:59-7-20. [RESERVED]**

[Source: Reserved at 34 Ok Reg 5, eff 8-12-16 (emergency); Reserved at 34 Ok Reg 1011, eff 9-11-2017]

**165:59-7-21. Installation, Construction, and Special Construction**

(a) The OUSF will fund reasonable installation and special construction charges. These charges shall be evaluated for purposes of the OUSF Administrator's analysis of lowest cost reasonable qualifying bid selection by the OUSF Beneficiary as part of the overall bid pricing and funding evaluation, and will be amortized as follows:

- (1) For schools and libraries, over a one (1) year period, unless the bid allocates the construction over multiple years and is approved pursuant to state or federal law.
- (2) For telemedicine, over the lifetime of the contract, not to exceed five (5) years.
- (b) Upon request by the OUSF Beneficiary, during the preapproval process, the OUSF Administrator's analysis of lowest cost reasonable qualifying bid may allocate special construction charges over the period selected in the special construction cost analysis in (c) in order to consider long term cost effectiveness to the OUSF.
- (c) Special Construction Cost:
- (1) Prior to posting the request for bids, the OUSF Beneficiary is required to seek OUSF Administrator review of any bid evaluation criteria for any projects involving special construction cost. Review 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 five (5) years.
- (3) If special construction is funded, special construction will not be available again to the location(s) specified for the period used in the analysis.
- (4) Special construction costs will not be included in monthly recurring costs.
- (5) Eligible providers that receive special construction cost funding for installation shall maintain or reduce monthly recurring costs.

[Source: Added at 34 Ok Reg 5, eff 8-12-16 (emergency); Added at 34 Ok Reg 1011, eff 9-11-2017]

## **SUBCHAPTER 9. OKLAHOMA LIFELINE FUND**

### **PART 1. LIFELINE SERVICE PROGRAM**

#### Section

- |             |   |
|-------------|---|
| 165:59-9-1. | Purpose of Oklahoma Lifeline Fund         |
| 165:59-9-2. | [RESERVED]                                |
| 165:59-9-3. | Oklahoma Lifeline Service Program         |
| 165:59-9-4. | [RESERVED]                                |
| 165:59-9-5. | Recertification of Lifeline eligibility   |
| 165:59-9-6. | Retention of Lifeline eligibility records |

### **PART 3. ADMINISTRATION OF THE OKLAHOMA LIFELINE FUND**

- |              |                            |
|--------------|----------------------------|
| 165:59-9-11. | Administration of the Fund |
| 165:59-9-12. | [RESERVED]                 |
| 165:59-9-13. | Audits                     |
| 165:59-9-14. | [RESERVED]                 |
| 165:59-9-15. | Violations                 |
| 165:59-9-16. | [RESERVED]                 |
| 165:59-9-17. | Reporting requirements     |

### **PART 5. CONTRIBUTIONS AND REIMBURSEMENTS**

165:59-9-21.	Contributions to the Oklahoma Lifeline Fund
165:59-9-22.	[RESERVED]
165:59-9-23.	Amount of contribution
165:59-9-24.	[RESERVED]
165:59-9-25.	Procedures for requesting reimbursement from the OLF
165:59-9-26.	[RESERVED]
165:59-9-27.	Recovery of contribution
165:59-9-28.	[RESERVED]
165:59-9-29.	Resolution of disputes regarding contributions

## 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, 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.

[Source: Added at 15 Ok Reg 1195, eff 1-6-98 (emergency); Added at 15 Ok Reg 1915, eff 7-1-98; Amended at 19 Ok Reg 2017, eff 7-1-02; Amended at 30 Ok Reg 1591, eff 7-11-13; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

#### **165:59-9-2. [RESERVED]**

[Source: Reserved at 15 Ok Reg 1195, eff 1-6-98 (emergency); Reserved at 15 Ok Reg 1915, eff 7-1-98]

#### **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 17 O.S. § 139.105.

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

(c) Each eligible local exchange telecommunications service provider 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, 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 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 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 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 OLF Administrator at least fifteen (15) calendar 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 eligible local exchange telecommunications service provider receives written notification that its modification is NOT IN THE PUBLIC INTEREST within fifteen (15) calendar days after its submission, the submission is deemed to be in the public interest and may be implemented.
- (n) The eligible local exchange telecommunications service provider shall utilize a third party verification system that has been approved by the OLF Administrator to verify the customer's identity and address, or obtain a waiver from the OLF Administrator from this requirement.
- (o) The 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 eligible local exchange telecommunications service provider shall maintain a database sufficient to identify any duplicates among all companies associated with the eligible local exchange telecommunications service provider.
- (q) Unless otherwise approved by Commission Order, any Lifeline plan on Tribal Land must include a minimum of one thousand (1,000) 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 five-hundred (500) minutes of local voice use to be considered in the public interest.
- (r) All marketing efforts must clearly identify the 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 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 seeking reimbursement from the 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 OLF, an eligible local exchange telecommunications service provider must show compliance with 17 O.S. § 139.105(E).

[Source: Added at 15 Ok Reg 1195, eff 1-6-98 (emergency); Added at 15 Ok Reg 1915, eff 7-1-98; Amended at 16 Ok Reg 2360, eff 7-1-99; Amended at 19 Ok Reg 2017, eff 7-1-02; Amended at 28 Ok Reg 2262, eff 7-25-11; Amended at 30 Ok Reg 1591, eff 7-11-13; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

#### **165:59-9-4. [RESERVED]**

[Source: Reserved at 15 Ok Reg 1195, eff 1-6-98 (emergency); Reserved at 15 Ok Reg 1915, eff 7-1-98]

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

Each 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 eligible local exchange telecommunications service provider shall retain a copy of the signed recertification form for three (3) years.

[Source: Added at 15 Ok Reg 1195, eff 1-6-98 (emergency); Added at 15 Ok Reg 1915, eff 7-1-98; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

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

All records, including the signup 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 eligible local exchange telecommunications service provider obtained a waiver from the requirement to utilize a third party verification system) shall be retained by the eligible local exchange telecommunications service provider for a minimum of three (3) years.

[Source: Added at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

### **PART 3. ADMINISTRATION OF THE OKLAHOMA LIFELINE FUND**

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

- (a) The Public Utility Division of the Commission shall be the Administrator of the OLF. The administrative function shall be headed by the OLF Administrator, as defined in 17 O.S. § 139.102.
- (b) The OLF Administrator may, as necessary, take all actions necessary to fulfill the objectives of the Oklahoma Telecommunications Act, including but not limited to, contracting with a third-party who has no conflict of interest in the provisioning of telecommunications services for 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.
- (d) The OLF Administrator and/or contracted agent shall administer the OLF in accordance with this Subchapter and the Oklahoma Telecommunications Act.
- (e) The OLF Administrator's or contacted agent's 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 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, 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) Independently evaluate and review Requests for OLF Funding within the time frames identified in the Oklahoma Telecommunications Act, make a Determination of the accuracy of the requests, and advise the eligible local exchange telecommunications service provider requesting the funds of the determination of eligibility made by the OLF Administrator; and,
  - (8) Performing any other duties as required by law, and/or this Chapter.

[Source: Added at 15 Ok Reg 1195, eff 1-6-98 (emergency); Added at 15 Ok Reg 1915, eff 7-1-98; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

#### **165:59-9-12. [RESERVED]**

[Source: Reserved at 15 Ok Reg 1195, eff 1-6-98 (emergency); Reserved at 15 Ok Reg 1915, eff 7-1-98]

#### **165:59-9-13. Audits**

- (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.

[Source: Added at 15 Ok Reg 1195, 1-6-98 (emergency); Added at 15 Ok Reg 1915, eff 7-1-98; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

#### **165:59-9-14. [RESERVED]**

[Source: Reserved at 15 Ok Reg 1195, eff 1-6-98 (emergency); Reserved at 15 Ok Reg 1915, eff 7-1-98]

#### **165:59-9-15. Violations**

If a 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.

[Source: Added at 15 Ok Reg 1195, eff 1-6-98 (emergency); Added at 15 Ok Reg 1915, eff 7-1-98; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

#### **165:59-9-16. [RESERVED]**

[Source: Reserved at 15 Ok Reg 1195, eff 1-6-98 (emergency); Reserved at 15 Ok Reg 1915, eff 7-1-98]

#### **165:59-9-17. Reporting requirements**

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

[Source: Added at 15 Ok Reg 1195, eff 1-6-98 (emergency); Added at 15 Ok Reg 1915, eff 7-1-98; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

## PART 5. CONTRIBUTIONS AND REIMBURSEMENTS

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

(a) The OLF shall be funded in a competitively neutral manner in accordance with the Oklahoma Telecommunications Act.

(b) Each contributing provider, whether they are subject to the jurisdiction of the Commission or not, shall annually provide contact information to the OLF Administrator for the purpose of correspondence regarding contribution to the OLF. The submission of an annual report to the Commission shall be deemed sufficient for 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 OLF 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 OLF Administrator may verify any information used by the contributing provider in its determination of its contributions to the OLF. Contributing providers shall maintain records and documentation to justify information used in its determination of its contributions to the OLF for three (3) years, and shall provide such records and documentation to the OLF Administrator upon request. Inaccurate or untruthful information used by the contributing provider may lead to prosecution to the full extent of the law.

[Source: Added at 15 Ok Reg 1195, eff 1-6-98 (emergency); Added at 15 Ok Reg 1915, eff 7-1-98; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

### **165:59-9-22. [RESERVED]**

[Source: Reserved at 15 Ok Reg 1195, eff 1-6-98 (emergency); Reserved at 15 Ok Reg 1915, eff 7-1-98]

### **165:59-9-23. Amount of contribution**

(a) The OLF Administrator or contracted agent shall, consistent with 165:59-3-40, and based on the adjusted amount to be contributed to the OLF, independently evaluate and 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.

(b) The funding from each contributing provider shall be based on the total intrastate retail Oklahoma Interconnected Voice over Internet Protocol revenues and intrastate telecommunications revenues, from both regulated and unregulated services, of the contributing provider, herein after referred to as assessed revenues, as a percentage of all 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 FCC, 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 calculation, 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.

(d) The fiscal reporting year shall be July 1 through June 30.

(e) Each contributing provider shall pay its contribution directly to the OLF Administrator, or contracted agent, as directed by the OLF Administrator, on a monthly or annual basis, conditioned upon an annual revenue threshold established by the OLF Administrator.

(f) If the contributing provider qualifies to pay its contribution annually, payment shall be made at the beginning of the fiscal year, and is past due after August 31. If the contributing provider underestimates its annual contribution by 15% or greater, the contributing provider shall be required to make its contributions monthly for the next fiscal reporting year, and underpayments will be subject to interest.

(g) If the contributing provider qualifies to pay its contribution monthly, the contributing provider shall report the prior calendar month's revenues, and pay on those revenues, by the end of the month, each month, without skipping a month.

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

(i) The payment shall be payable to the OLF. All contributions and interest payments shall be deposited into the OLF account established by the OLF Administrator and/or contracted agent.

(j) All contributions shall be subject to audit by the OLF Administrator, or its contracted agent.

[Source: Added at 15 Ok Reg 1195, eff 1-6-98 (emergency); Added at 15 Ok Reg 1915, eff 7-1-98; Amended at 16 Ok Reg 2360, eff 7-1-99; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

#### **165:59-9-24. [RESERVED]**

[Source: Reserved at 15 Ok Reg 1195, eff 1-6-98 (emergency); Reserved at 15 Ok Reg 1915, eff 7-1-98]

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

- (a) Any eligible local exchange telecommunications service provider required to file 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 OLF Administrator or contracted agent shall independently evaluate and 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) An eligible local exchange telecommunications service provider seeking reimbursement of eligible Lifeline Service Program credits from the OLF shall:
- (1) File a "Request for OLF Funding" with the Commission's Court Clerk.
  - (2) Concurrent with filing the Request for OLF Funding, the eligible local exchange telecommunications service provider 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 OLF Funding to the OLF Administrator, the Oklahoma Attorney General, and to each 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 Commission's Court Clerk, for posting on the Commission's website. The OLF Administrator will then place the notification on the Commission's website within five (5) business days.
- (d) An eligible local exchange telecommunications 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 service provider. 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 service provider.
- (e) The OLF Administrator and/or contracted agent shall independently evaluate, 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 ninety (90) calendar 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 with the Commission's Court Clerk and post it to the Commission's website.
- (f) Any affected party may file a Request for Reconsideration within fifteen (15) calendar days of the Determination being filed by the OLF Administrator, by following the procedures in OAC 165:59-3-72.
- (g) Any Request for Reconsideration will be processed using the provisions set forth in OAC 165:59-3-72.
- (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 in accordance with the Oklahoma Telecommunications Act and this Chapter. The OLF Administrator or contracted agent shall provide the approved funding to the requesting eligible local exchange telecommunications service provider, consistent with the procedures in O.A.C 165:59-3-68.

(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.

[Source: Added at 15 Ok Reg 1195, eff 1-6-98 (emergency); Added at 15 Ok Reg 1915, eff 7-1-98; Amended at 28 Ok Reg 2263, eff 7-25-11; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

**165:59-9-26. [RESERVED]**

[Source: Reserved at 15 Ok Reg 1195, eff 1-6-98 (emergency); Reserved at 15 Ok Reg 1914, eff 7-1-98]

**165:59-9-27. Recovery of contribution**

Each 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.

[Source: Added at 15 Ok Reg 1195, eff 1-6-98 (emergency); Added at 15 Ok Reg 1915, eff 7-1-98; Amended at 32 Ok Reg 23, eff 8-27-15; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]

**165:59-9-28. [RESERVED]**

[Source: Reserved at 15 Ok Reg 1195, eff 1-6-98 (emergency); Reserved at 15 Ok Reg 1915, eff 7-1-98]

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

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

[Source: Added at 15 Ok Reg 1195, eff 1-6-98 (emergency); Added at 15 Ok Reg 1915, eff 7-1-98; Amended at 34 Ok Reg 5, eff 8-12-16 (emergency); Amended at 34 Ok Reg 1011, eff 9-11-2017]