

**FILED**  
JAN 25 2017

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA  
CLERK'S OFFICE - OKC  
CORPORATION COMMISSION  
OF OKLAHOMA

KLP  
IN THE MATTER OF A PERMANENT  
RULEMAKING OF THE  
OKLAHOMA CORPORATION  
COMMISSION AMENDING  
OAC 165:55, TELECOMMUNICATIONS  
SERVICES

CAUSE NO. RM 201700002

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**NOTICE OF PROPOSED RULEMAKING**

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**NOTICE IS HEREBY GIVEN** that the Public Utility Division ("PUD") of the Oklahoma Corporation Commission ("Commission") recommends that the Commission amend the Telecommunications Services Rules that are set forth in the Oklahoma Administrative Code ("OAC") 165:55. The proposed changes will address issues that have arisen concerning Telecommunications Services and Wireless Eligible Telecommunications Carriers and update the rules, where appropriate.

The proposed changes to OAC 165:55 are as follows:

OAC 165:55-1-2 would be amended to add language to make clear that the Commission also has authority to grant certificates of convenience and necessity ("CCN") to data-only providers.

OAC 165:55-1-3 would be amended to specifically identify data-only providers separate from telecommunications service providers and interexchange carriers ("IXCs"). The language is also intended to limit the applicability of Chapter 55 rules to just the CCN requirements as those relate to data-only providers.

OAC 165:55-1-4 would be amended to add a definition for Consumer Service Department ("CSD") to maintain consistency with the other Chapters of the OAC.

OAC 165:55-1-4 would amend the definition of "Data-only provider" to specify that the non-voice services that can be offered by a data-only provider includes Special Universal Services. This ties the definition of data-only provider to the provision of Special Universal Services and assists when using the data-only provider classification in conjunction with the CCN requirements.

OAC 165:55-1-4 would amend the definition of “Eligible Telecommunications Carrier (“ETC”)” to add language that incorporates the newly created federal Lifeline Broadband Provider ETC into the definition of ETC.

OAC 165:55-1-4 would amend the definition of “Tribal Land” to correct a typographical error.

OAC 165:55-1-6 would be amended to add data-only provider to TSP and IXC as entities that can seek relief from the rules. This is consistent with the underlying theme in the CCN revisions to treat data-only providers as a unique class of providers.

OAC 165:55-1-8(b) would be amended to delete references to revoked subsections.

OAC 165:55-1-16 would be amended to insert “Contributing providers” as it is used in the statute in place of “entity” for purposes of describing those parties that are to contribute to the Oklahoma Universal Service Fund (“OUSF”). The requirement for Contributing providers to provide contact information annually is also added to the rule.

OAC 165:55-3-1(b) would be amended to make clear that OneNet is excluded from the CCN requirement for purposes of requesting funding from the OUSF for the provision of Special Universal Services and deletes the language that previously required the CCN to be consistent with where service is actually being provided. Both of these changes are to gain consistency with 17 O.S. § 139.109.1(B)(4) and the definition of “Eligible provider” at 17 O.S. § 139.102(11).

OAC 165:55-3-1(d)(1)(A) would be amended to add the provision of Special Universal Services to telecommunications service as one of the potential activities an entity could be engaged in for which the CCN application is being made.

OAC 165:55-3-1(d)(1)(D)(vii) would be amended to require a data-only applicant to clearly indicate whether or not the CCN is requested exclusively for the purpose of seeking reimbursement from the OUSF for the provision of Special Access Services in accordance with 17 O.S. §139.109.1(B)(4). In doing so this also removes the Public Safety Answering Point (“PSAP”) notification requirement from such a data-only applicant, which eliminates the need to request a waiver.

OAC 165:55-3-1(d)(1)(D)(viii) would be amended to clarify that notice to the E911 Database Management Service Provider is only required in limited circumstances.

OAC 165:55-3-1(d)(2)(C) would be amended to add data-only provider to TSP and IXC because this and other subsections contain references which are limited in their applicability to data-only providers (for the limited purpose of OUSF support) in their specific CCN application process.

OAC 165:55-3-1(d)(2)(D) would be amended as section references are changing and the subsection referencing the surety bond will change to (h).

OAC 165:55-3-1(d)(2)(F) would be amended by adding Special Universal Services to the list of identified services in order to allow a data-only provider, when applicable, to provide a history of providing that type of service.

OAC 165:55-3-1(d)(2)(G) would be amended by adding Special Universal Services to the list of identified services in order to allow a data-only provider, when applicable, to demonstrate its technical abilities in providing that type of service.

OAC 165:55-3-1(d)(2)(I) would be amended to reflect the new definition for CSD. Additionally, adding IXC and data-only to TSP specifies the types of entities for which this information would be utilized.

OAC 165:55-3-1(d)(2)(P) would be amended by adding Special Universal Services to the list of identified services to make clear that providers of those service are to provide the information required by this section.

OAC 165:55-3-1(e) would be renumbered to OAC 165:55-3-1(f)

OAC 165:55-3-1(e) would be a new subsection to specify which of the existing CCN application requirements from subsection OAC 165:55-3-1(d) apply to a CCN request for the limited purpose of receiving reimbursement from the OUSF for the provision of Special Universal Services. This change also includes additional information that is typically requested for these types of CCN applications in order to get an understanding of the providers' specific operations and processes in participating in any support programs like the OUSF. By creating a new section that has requirements specific to this type of data-only provider, we should be able to avoid the waiver process for those requirements that do not apply to such applicants.

OAC 165:55-3-1(f) would be renumbered to OAC 165:55-3-1(g).

OAC 165:55-3-1(g) would be renumbered to OAC 165:55-3-1(h).

OAC 165:55-3-1(h) would be renumbered to OAC 165:55-3-1(i).

OAC 165:55-3-1(i) would be renumbered to OAC 165:55-3-1(j) and amended to allow an applicant to indicate that the required E911 testing is not applicable as opposed to seeking a waiver.

OAC 165:55-3-2(1) would be amended to add a new subsection (E). This subsection adds language to exclude notices to PSAPS when the CCN application is limited to a data-only provider seeking authority for purposes of OUSF support. This also removes the requirement to notify the ILEC “in the proposed service territory” as the adjustments to the CCN process for these data-only providers, consistent with the definition of “Eligible provider” at 17 O.S. § 139.102(11), does not require that a “proposed service territory” be defined. The statute only requires a CCN within the state, with no requirement as to service type or location. This, combined with the limitations on the Commission’s regulatory authority over internet/broadband providers, would eliminate the service territory designation process in this limited circumstance.

OAC 165:55-3-2(2), OAC 165:55-13-14.1(a)(1), OAC 165:55-13-14.1(a)(2), OAC 165:55-13-14.1(b), OAC 165:55-15-1(a), OAC 165:55-23-15(a), OAC 165:55-23-11(a), and OAC 165:55-23-3(j) would be amended to correct typographical errors.

OAC 165:55-3-3(a) would be amended to correct the reference from OAC 165:55-11(c) to OAC 165:55-5-11(d). This change reflects the changes being made to the subsection designations.

OAC 165:55-3-3(d) would be amended to correct the reference from OAC 165:55-3-1(g) to OAC 165:55-3-1(h). This change reflects the changes being made to the subsection designations.

OAC 165:55-3-3 would be amended to add subsection (e) which excludes data-only providers (that are only seeking CCN authority for the limited purpose of seeking reimbursement from the OUSF for the provision of Special Universal Services in accordance with 17 O.S. § 139.109.1(B)(4)) from the applicability of the initial tariffs provisions. Such data-only providers would, instead, be required to provide an informational tariff when seeking a CCN limited to the provision of Special Universal Services.

OAC 165:55-3-22(g) would be amended to reflect that the Director of Consumer Services is the same as the Director of the Public Utility Division and reflects the new definition for CSD.

OAC 165:55-5-1 would be amended to add subsection (e) to establish an “informational tariff” requirement for the data-only providers exclusively providing Special Universal Services.

OAC 165:55-7-1(d)(2), OAC 165:55-7-1(d)(2)(G), OAC 165:55-7-2(a), OAC 165:55-9-2(b)(3), OAC 165:55-9-5(b), OAC 165:55-9-5(b)(3), OAC 165:55-9-5(c), OAC 165:55-11-6(b), OAC 165:55-11-7(a)(4), OAC 165:55-11-11(b)(1), OAC 165:55-11-11(b)(3), OAC 165:55-11-11(c), OAC 165:55-11-12(a)(7), OAC 165:55-11-12(a)(8), OAC 165:55-13-20(e)(1), OAC 165:55-15-1(e)(7), OAC 165:55-19-1.5(d), OAC 165:55-23-9(b)(3), OAC 165:55-23-9(c), OAC 165:55-23-9(b), and OAC 165:55-23-54(a) would be amended to reflect the new definition for CSD.

OAC 165:55-9-5(b)(1) would be amended to reflect the new definition for CSD as well as correct the address.

OAC 165:55-9-5(b)(2) would be amended to reflect the new definition for CSD and correct a typographical error in the address.

OAC 165:55-9-5(b)(4) would be amended to reflect the new definition for CSD as well as specify the dates the Consumer Services Department will be closed.

OAC 165:55-13-14.1(e) would be amended to remove the reference to OAC 165:59-9-3 and replace it with a reference to 47 C.F.R. § 54.409. The change references a federal rule specific to the qualification for Link-up. This is appropriate as it is exclusively a federal program.

OAC 165:55-13-20(c) would be amended to update the references to the National Electrical Code (“NEC”) and the National Electric Safety Code (“NESC”) to the 2014 edition for the NEC and the 2012 edition for NESC (from the current 2002 and 1997 editions). This language also makes the change applicable on a going forward basis beginning on September 1, 2017.

OAC 165:55-13-52(a) would be amended to reflect that the Director of Consumer Services is the Director of the Public Utility Division and adds the Commission’s Public Information Officer to the list of people that shall be notified in the event of a service interruption.

OAC 165:55-15-1(e)(8) would be amended to remove the current requirement to include a financial statement as part of an affidavit as to financial ability. The affidavit can stand on its own and Staff, to the extent necessary, will pursue the financial statement through discovery in which the applicant can get a protective order.

OAC 165:55-19-1.6(b)(1) would be amended to reflect the new definition for CSD and correct a typographical error.

OAC 165:55-23-1 would be amended to add language to include the FCC designated ETCs as being included in those to which these requirements pertain. Additional language clarifies that those ETCs with OCC granted designations will comply with the requirements of this Subsection and, further, if eligible for Oklahoma Lifeline Fund (“OLF”) support, the requirements of OAC 165:59-9-1 *et seq.* and corrects typographical errors.

OAC 165:55-23-2(a) would be amended to recognize that an ETC designation can now be granted by the FCC.

OAC 165:55-23-3(e) would be amended to reflect that the Director of Consumer Services is the same as the Director of the Public Utility Division and reflects the new definition for CSD.

OAC 165:55-23-9(b)(1) would be amended to reflect the new definition for CSD and correct the address.

OAC 165:55-23-9(b)(2) would be amended to reflect the new definition for CSD and correct a typographical error.

OAC 165:55-23-9(b)(4) would be amended to reflect the new definition for CSD and specify what dates CSD will be closed.

OAC 165:55-23-11(c) would be amended to change the minimum services standard for voice services to be consistent with the federal requirements under the federal rules.

OAC 165:55-23-11(c)(1) and OAC 165:55-23-11(c)(2) would be deleted. This change deletes minimum service standards that are to be replaced by the federal requirements.

OAC 165:55-23-11(c)(3) would be renumbered to OAC 165:55-23-11(d). This change is due to the deletion of the existing OAC 165:55-23-11(c)(1) and OAC 165:55-23-11(c)(2).

OAC 165:55-23-12(a) would be amended to implement the new federal eligibility programs and to limit the applicability of the state specific eligibility programs to qualification for the OLF only.

OAC 165:55-23-12(a)(1),(2),(3),(4),(5),(6), and (7) would all be deleted. This change strikes all references to specific eligibility programs.

OAC 165:55-23-15(e) would be amended to clarify which support amounts, federal versus state, are applicable, provide references to state and federal rules and statutes, and corrects typographical errors.

OAC 165:55-23-15(n) would be amended to change the minimum service standard requirement to be defined by the federal rules by citing to the federal rule.

OAC 165:55-23-15(q) would be amended to alter the non-usage threshold from sixty (60) days to thirty (30) days to be consistent with the new federal regulatory requirement.

OAC 165:23-17(e) would be amended to strike the reference to OAC 165:59-9-3 and replace it with 47 C.F.R. § 54.409. This change deletes the reference to state qualification programs and replaces it with a cite to the federal rule where these criteria are located.

**NOTICE IS FURTHER GIVEN** that the Commission has jurisdiction to initiate this permanent rulemaking pursuant to the Oklahoma Administrative Procedures Act, 75 O.S. 2011, §§ 250 *et seq.*, 17 O.S. § 131 *et seq.*, and Art. IX, Section 18 of the Oklahoma Constitution.

**NOTICE IS FURTHER GIVEN** that PUD believes it is necessary to adopt permanent rules regarding Telecommunications. Upon adoption of the permanent rules proposed herein, by the Commission, the proposed rules shall be submitted to the Governor and the Oklahoma Legislature for approval as permanent rules.

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

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

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

participate in the dialogue with the rulemaking participants regarding the issues of the proposed rulemaking.

**NOTICE IS FURTHER GIVEN** that the Commission invites all interested persons to **submit comments regarding the proposed changes to the Rules on or before February 10, 2017 and March 6, 2017.** Those persons interested in submitting comments should file one (1) copy of their comments, referring to Cause No. RM 201700002, with the Commission's Court Clerk's Office. The comments will be made available for public inspection by telephone, email, or in-person request during regular business hours of the Court Clerk's Office, 8:00 a.m. to 4:30 p.m.

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

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

**NOTICE IS FURTHER GIVEN** that further information and inquiries regarding this proposed rulemaking should be directed to Michael L. Velez, Assistant General Counsel, by telephone (405) 522-5930, e-mail [m.velez@occemail.com](mailto:m.velez@occemail.com), facsimile (405) 521-4150, or at Room 400, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, or Post Office Box 52000, Oklahoma City, Oklahoma 73152-2000.



**CORPORATION COMMISSION OF OKLAHOMA  
DISSENT PERTAINING TO CHANGING NAME OF  
CONSUMER SERVICES DIVISION**

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BOB ANTHONY, Chairman

*Dana L. Murphy*

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DANA L. MURPHY, Vice Chairman

*J. Todd Hiatt*

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J. TODD HIETT, Commissioner

**CERTIFICATION**

DONE and PERFORMED this *25<sup>th</sup>* day of *January*, 2017 BY ORDER OF THE  
COMMISSION:

[Seal]

*Peggy Mitchell*

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PEGGY MITCHELL, Commission Secretary