

**BEFORE THE CORPORATION COMMISSION OF OKLAHOMA**

COURT CLERK'S OFFICE - OKC  
CORPORATION COMMISSION  
OF OKLAHOMA

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

**CAUSE NO. RM 201200013**

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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 Oklahoma Universal Service Rules that are set forth in the Oklahoma Administrative Code ("OAC") 165:59. The proposed changes will address issues that have arisen concerning the Oklahoma Universal Service Fund ("OUSF").

The proposed changes to OAC 165:59 are as follows:

OAC 165:59-1-4 would be amended to revise the definitions of "Eligible healthcare entity," "Hospital," "Not-for-profit hospital," "Primary Universal Services," "Telecommunications carrier," and "Telemedicine."

OAC 165:59-1-4 would also be amended to add definitions for "Free of Charge," "Public school building wherein classrooms are contained," and "Internet Subscriber Fee."

OAC 165:59-3-62 would be amended to require the notification of a Request for OUSF funding to include the amount of the request, whether the request is for Lifeline support, Primary Universal Service support or for Special Universal Services, and the entities for which any Special Universal Service reimbursement is requested.

OAC 165:59-7-6 would be amended to clarify when the funding to a healthcare entity will cease if the entity is not recertified to receive Telemedicine funding from the OUSF.

OAC 165:59-7-8 would be amended to clarify how funding for a telecommunications carrier will be calculated for their provision of Special Universal Services to public schools.

OAC 165:59-7-17 would be amended to add a requirement that providers of Special Universal Services provide information to the school, library, or telemedicine recipient, prior to signing a contract with the school, library or telemedicine recipient, disclosing the limitations on funding from the OUSF for the relevant Special Universal Service.

OAC 165:59-9-3 would be amended to place specific requirements on Eligible Telecommunications Carriers providing Oklahoma Lifeline Services, in order to eliminate waste, fraud and abuse of the program.

Additional changes are proposed to update statutory citations within OAC 165:59.

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

**NOTICE IS FURTHER GIVEN** that PUD believes it is necessary to adopt permanent rules regarding Oklahoma Universal Services in order to ensure funding for the intended purposes and to facilitate the elimination of waste, fraud and abuse of the Oklahoma Universal Service Fund and Oklahoma Lifeline Fund. If permanent rules are adopted in this Cause 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 [occcourtclerk@occemail.com](mailto:occcourtclerk@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 the Commission invites all interested persons to **submit comments regarding the proposed changes to the Rules on or before January 8, 2013**. The comments will be made available for public inspection by call, email, or in-person request during regular business hours of the Court Clerk's Office, 8:00 a.m. to 4:30 p.m.

**NOTICE IS FURTHER GIVEN** that the Public Utility Division will have two technical conferences on **January 15, 2013, at 10:00 a.m., and February 7, 2013, at 10:00 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.

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

The Public Utility Division has made a determination that some of the proposed rules may have adverse economic effect on small businesses. Pursuant to 75 O.S. § 501, *et seq.*, the Commission will provide the Small Business Regulatory Review Committee with the Notice of Proposed Rulemaking, the Proposed Rules and the Rule Impact Statement.

**NOTICE IS FURTHER GIVEN** that the Commission *en banc* shall consider the permanent adoption of the proposed rules at a public hearing at **9:30 a.m. on February 14, 2013**, 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 Allison Chandler, Assistant General Counsel, by telephone (405) 522-8954, e-mail [a.chandler@occcemail.com](mailto:a.chandler@occcemail.com), facsimile

(405) 521-4150, or at Room 400, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, or Post Office Box 52000, Oklahoma City, Oklahoma 73152-2000.

CORPORATION COMMISSION OF OKLAHOMA

*Patrice Douglas*

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PATRICE DOUGLAS, Chairman

DISSENTING OPINION ATTACHED

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BOB ANTHONY, Vice Chairman

*Dana L. Murphy*

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DANA L. MURPHY, Commissioner

**CERTIFICATION**

DONE and PERFORMED this 19 day of December 2012 BY ORDER OF THE COMMISSION:

[Seal]

*Peggy Mitchell*

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PEGGY MITCHELL, Commission Secretary

Cause No. PUD 201200186  
Cause No. RM 201200012  
Cause No. RM 201200013

December 19, 2012

**DISSENTING OPINION OF COMMISSIONER BOB ANTHONY**

Respectfully, I dissent from Commission actions taken today in Cause No. PUD 201200186, Cause No. RM 201200012 and Cause No. RM 201200013.

Collectively and/or individually these public utility matters represent expanded regulatory scope and activity. Perhaps for the first time in over 100 years of regulatory oversight, this agency now apparently is in the process of capturing customer-specific data on hundreds of thousands of Oklahoma households, including names, addresses, telephone numbers, dates of birth, poverty status, and at least the last four digits of Social Security numbers. This commissioner senses an ill-defined effort by staff to conduct an "investigation," and I question whether the agency has the resources and capability to maintain personal information of citizens in a confidential and secure manner. Furthermore, I dissent because staff is probably correct when it has already determined that the proposed new rules may have an adverse economic effect on small businesses.

The Federal government has set forth an expensive mechanism of charging telephone customers billions of dollars to finance poorly-designed subsidy programs. Statements by our staff indicate the agency has already facilitated payments involving waste, fraud and abuse.

Furthermore, the word "Internet" occurs today despite O.S. Title 17, Chapter 6, Section 139.110(A) providing, "The Oklahoma Corporation Commission shall not, by entering any order, adopting any rule, or otherwise taking any agency action, impose any regulation upon a provider of high speed Internet access service or broadband service in its provision of such service, regardless of technology or medium used to provide such service."

Bob Anthony  
Commissioner