**Section 139.106 - Oklahoma Universal Service Fund (OUSF)**

A. There is hereby created within the Corporation Commission the "Oklahoma Universal Service Fund" (OUSF). Not later than January 31, ~~1998~~ 2021, the Corporation Commission shall promulgate rules ~~implementing~~ updating the OUSF so that, consistent with the provisions of this ~~section~~ Act, funds can be made available to ~~eligible local exchange telecommunications service providers~~ Eligible Local Exchange Telecommunications Service Providers with regard to this Section, Eligible Telecommunications Carriers with regard to Section 139.105 of this Act and~~, consistent~~ Eligible Providers with regard to Section ~~6 of this act, funds can be made available to eligible providers~~ 139.109.1.

B. The OUSF shall be funded and administered to promote and ensure the availability of ~~primary universal services~~ Primary Universal Services, at rates that are reasonable and affordable and Special Universal Services, and to provide for reasonably comparable services at affordable rates in rural areas as in urban areas. The OUSF shall provide funding to ~~local exchange telecommunications service providers~~ Eligible Local Exchange Telecommunications Service Providers that meet the eligibility criteria established in this ~~section~~ Section, ~~and~~ to ~~eligible providers~~ Eligible Providers that meet the eligibility criteria established in Section ~~6~~ 139.109.1 of this ~~act~~ Act, and to Eligible Telecommunications Carriers that meet the eligibility criteria established in Section 139.105 ~~for the provision of Special Universal Services~~. Further, the OUSF shall provide specific, predictable and sufficient funds to Eligible Local Exchange Telecommunications Service Providers, that have Carriers of Last Resort obligations, necessary to deploy, maintain and manage networks capable of providing Primary Universal Services.

~~C. The OUSF shall be funded by a charge paid by all contributing providers as provided for in Section 139.107 of this title, at a level sufficient to maintain universal service.~~

C. 1. The ~~procedure~~ ~~for eligible local exchange telecommunications service providers and eligible providers~~ procedures to seek and obtain OUSF and Oklahoma Lifeline Fund (OLF) funding shall be as set forth in this subsection, unless otherwise specifically stated.

~~2.~~ a. ~~Within~~ For requests for OLF funding filed pursuant to Section 139.105, within ninety (90) days after receipt of a request ~~for funds from an eligible local exchange telecommunications service provider or an eligible provider,~~ the Administrator ~~as defined pursuant to Section 139.102 of this title~~ shall independently review and determine the accuracy of the request and advise the ~~eligible local exchange telecommunications service provider or eligible provider~~ Eligible Telecommunications Carrier requesting the funds of the determination of eligibility made by the Administrator. The determination shall detail the amount of funding recoverable from the ~~OUSF and~~ OLF at the time of the initial application. The determination shall include a requirement to provide monthly updates to the number of eligible Lifeline subscribers. Failure by the Administrator to issue a determination within the ~~ninety-day~~ ninety (90) day period means the request for ~~OUSF or~~ OLF reimbursement is deemed approved on a permanent basis, and funding shall be paid within forty-five (45) days without an order of the Commission. If a request for reconsideration of the determination of the Administrator is not filed as provided for in paragraph ~~5~~ 3 of this ~~subsection~~ Subsection, the determination of the Administrator shall be deemed ~~final~~ approved on the sixteenth (16th) day following the date of the determination~~.~~, and ~~The OUSF funding as provided in the determination of~~ the Administrator shall ~~be paid to the eligible local exchange telecommunications service provider or eligible provider~~ pay the amount set forth in the determination to the Eligible Telecommunications Carrier within forty-five (45) days without an order of the Commission.

b. For requests for Special Universal Services funding filed pursuant to Section 139.109.1, within ninety (90) days after receipt of a request, the Administrator shall independently review and determine the accuracy of the request and advise the Eligible Provider requesting the funds of the determination of eligibility made by the Administrator. The determination shall detail the amount of funding recoverable from the OUSF. Failure by the Administrator to issue a determination within the ninety (90) day means the request for OUSF reimbursement is deemed approved on a permanent basis, and funding shall be paid within forty-five (45) days without an order of the Commission. If a request for reconsideration of the determination of the Administrator is not filed as provided for in paragraph 3 of this Subsection, the determination of the Administrator shall be deemed approved on the sixteenth (16th) day following the date of the determination and the Administrator shall pay the amount set forth in the determination to the Eligible Provider within forty-five (45) days without an order of the Commission.

c. For requests for Primary Universal Services funding filed pursuant to Section 139.106(G) or Section 139.106(J), within one-hundred twenty (120) days after receipt of a request the Administrator shall independently review and determine the accuracy of the request and advise the Eligible Local Exchange Telecommunications Service Provider requesting the funds of the determination of eligibility made by the Administrator. The determination shall detail the amount of funding recoverable from the OUSF. Failure by the Administrator to issue a determination within the one-hundred twenty (120) day period means the request for reimbursement is deemed approved on a permanent basis, and funding shall be paid within forty-five (45) days without an order of the Commission. If a request for reconsideration of the determination issued by the Administrator is not filed as provided for in paragraph 3 of this Subsection, the determination shall be deemed approved on the sixteenth (16th) day following the date of the determination and the Administrator shall pay the amount set forth in the determination to the Eligible Local Exchange Telecommunications Service Provider within forty-five (45) days without an order of the Commission.

~~3.~~ d. For requests seeking OUSF funds pursuant to Section ~~6 of this act~~ 139.109.1, provided that an OUSF  ~~approval~~ pre-approval funding letter has been issued as otherwise provided for in the Oklahoma Telecommunications Act of 1997, the eligible provider shall, within sixty (60) days of the start of service, submit to the Administrator a request for reimbursement from the OUSF. The Administrator shall have sixty (60) days to issue a determination to the Oklahoma Universal Service Fund Beneficiary and eligible provider detailing the amount of funding recoverable from the OUSF. Failure by the Administrator to issue a determination within the sixty-day period means the request for OUSF reimbursement is approved as submitted. The determination shall detail the amount of funding recoverable from the OUSF. Failure by the Administrator to issue a determination shall mean the request for OUSF reimbursement is deemed approved on a permanent basis, and funding shall be paid within forty-five (45) days without an order of the Commission. If a request for reconsideration of the determination of the Administrator is not filed as provided for in paragraph ~~5~~ 3 of this subsection, the determination shall be deemed final on the sixteenth day following the date of the determination. The OUSF funding as provided in the determination of the Administrator shall be paid to the eligible provider within forty-five (45) days without an order of the Commission.

~~4.~~ 2. A request for reimbursement as provided for in ~~paragraph 3~~ (C)(1)(a)-(d) ~~of this subsection~~ shall be in the form as determined by the Administrator. The form shall be posted by the Administrator no later than one hundred twenty (120) days prior to the start of the funding year to become effective July 1 for reimbursement requests submitted for eligible services provided during the funding year. Any party may file an objection to a posted form with the Commission within fifteen (15) days of the posting. The Commission shall have thirty (30) days to issue a final order on the objection to the form. If the Commission does not issue a final order on the objection within thirty (30) days, the objection shall be deemed approved.

~~5.~~ 3. Any affected party, meaning the ~~eligible local exchange telecommunications service provider~~ Eligible Local Exchange Telecommunications Service Provider, the ~~eligible provider~~ Eligible Provider, the Eligible Telecommunications Carrier, any service provider that pays into the OUSF or OLF, the Oklahoma Universal Service Fund Beneficiary or the Attorney General, shall have fifteen (15) days to file a request for reconsideration by the Commission of the determination made by the Administrator. ~~If the Commission does not issue a final order within thirty (30) 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. The interest rate on a refund shall be at a rate of not more than the interest rate established by the Commission on customer deposits and shall accrue for a period not to exceed ninety (90) days from the date the funds were received by the requesting eligible local exchange telecommunications service provider or eligible provider. If the Commission does not issue a final order within one hundred twenty (120) days of the filing of the request for reconsideration, then the request for OUSF or OLF funding as filed shall be deemed approved on a permanent basis without order of the Commission, and the OUSF and OLF funding shall be paid without an order of the Commission within forty-five (45) days.~~

a. In the case of requests for reconsideration of the Administrator’s determination of funding to be received pursuant to Section 139.105, if the Commission does not issue a Final Order within thirty (30) 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. The interest rate on a refund shall be at a rate of not more than the interest rate established by the Commission on customer deposits and shall accrue for a period not to exceed ninety (90) days from the date the funds were received by the Eligible Telecommunications Carrier. If the Commission does not issue a Final Order within one hundred twenty (120) days of the filing of the request for reconsideration, then the request for OLF funding as filed shall be deemed approved on a permanent basis without order of the Commission, and the OLF funding shall be paid without an order of the Commission within forty-five (45) days.

b. In the case of requests for reconsideration of the Administrator’s determination of funding to be received pursuant to Section 139.109.1, if the Commission does not issue a Final Order within thirty (30) days of the filing of the request for reconsideration, the request shall be deemed approved on an interim basis subject to refund with interest. The interest rate on a refund shall be at a rate of not more than the interest rate established by the Commission on customer deposits and shall accrue for a period not to exceed ninety (90) days from the date the funds were received by the Eligible Provider. If the Commission does not issue a Final Order within one hundred twenty (120) days of the filing of the request for reconsideration, then the request for OUSF funding as filed shall be deemed approved on a permanent basis without order of the Commission, and the OUSF funding shall be paid without an order of the Commission within forty-five (45) days.

c. In the case of requests for reconsideration of the Administrator’s determination of funding to be received pursuant to Section 139.106(G) or 139.106(J), if the Commission does not issue a Final Order within thirty (30) days of the filing of the request for reconsideration, the request shall be deemed approved on an interim basis subject to refund with interest. The interest rate on a refund shall be at a rate of not more than the interest rate established by the Commission on customer deposits and shall accrue for a period not to exceed ninety (90) days from the date the funds were received by the Eligible Provider. If the Commission does not issue a Final Order within one hundred twenty (120) days of the filing of the request for reconsideration, then the request for OUSF funding as filed shall be deemed approved on a permanent basis without order of the Commission, and the OUSF funding shall be paid without an order of the Commission within forty-five (45) days.

~~6.~~ 8. The term "~~final order~~ Final Order" as used in this ~~subsection~~ Act shall mean an order which resolves all issues associated with the request for OUSF or OLF funding.

~~E.~~ D. Contributing ~~providers~~ Providers may, at their option, recover from their retail customers the OUSF charges paid by the ~~contributing provider~~ Contributing Provider. The OUSF charges shall not be subject to state or local taxes or franchise fees.

~~F.~~ E. The Commission shall not, prior to implementation and the availability of funds from the OUSF, require ~~local exchange telecommunications service providers~~ Local Exchange Telecommunications Service Providers to reduce rates for intrastate access services.

~~G.~~ F. 1. Any ~~eligible local exchange telecommunications service provider~~ Eligible Local Exchange Telecommunications Service Provider may request funding from the OUSF as necessary to maintain rates for ~~primary universal services~~ Primary Universal Services that are reasonable and affordable. Funding for investment made subsequent to enactment of this Section may be limited to Eligible Local Exchange Telecommunications Service Providers with COLR obligations and to areas lacking unsubsidized Primary Universal Service. A qualified applicant seeking funding in support of the provision of Primary Universal Services may challenge the Administrator’s determination that unsubsidized Primary Universal Service is available from a qualified provider in a particular geographic area by providing detailed proof of the lack of unsubsidized Primary Universal Services in a geographic area. Further, for those areas in which the Administrator has determined that unsubsidized Primary Universal Service is available, the Incumbent Local Exchange Telecommunications Service Provider, by filing notice and tariff with the Commission, may relinquish its COLR obligations. OUSF funding shall be provided to ~~eligible local exchange telecommunications service providers~~ Eligible Local Exchange Telecommunications Service Providers for any of the following:

~~1.~~ a. To reimburse ~~eligible local exchange telecommunications service providers~~ for the reasonable investments and expenses not recovered from intrastate regulated revenues, except as provided in Section 139.106(G)(1)(d), the federal universal service fund or any other state or federal government fund incurred in providing universal services;

~~2.~~ b. To reimburse infrastructure ~~Infrastructure~~ expenditures or costs incurred in response to facility or service requirements established by a legislative, regulatory, or judicial authority or other governmental entity mandate;

~~3.~~ c. For reimbursement of the ~~Lifeline Service Program~~ credits given in conjunction with the provision of Lifeline Service as set forth in Section 139.105 of this title;

~~4.~~ d. ~~To reimburse~~ For approved reimbursement of the credits given in conjunction with the provision of ~~eligible local exchange telecommunications service providers for providing the~~ Special Universal Services as set forth in Section ~~6~~ 139.109.1 of this ~~act~~ title;

~~5. To defray the costs of administering the OUSF, including the costs of administration, processing, and an annual independent audit. The annual audit shall not be performed by the Commission staff; and~~

e. For reimbursement of decreases in revenues resulting from an Eligible Incumbent Local Exchange Telecommunications Service Provider serving less than seventy-five thousand access lines being subject to a Federal Communications Commission order, rule or policy impacting intrastate costs or revenues, except as provided in Section 139.106(G)(1)(d), which, after a full review of the company’s books and records, results in the Administrator determining that an under-earning status was created;

f. For reimbursement of reductions in revenues or increases in costs resulting from an Eligible Incumbent Local Exchange Telecommunications Service Provider serving less than seventy-five thousand access lines being subject to changes required by existing or future federal or state regulatory rules, orders, or policies or by federal or state law impacting intrastate costs or revenues, except as provided in Section 139.106(G)(1)(d), which, after a full review of the company’s books and records, results in the Administrator determining that an under-earning status was created; and

~~6.~~ g. For other purposes deemed necessary by the Commission to preserve and advance universal service.

2. If, as a result of changes made as required by existing or future federal or state regulatory rules, orders, or policies or by federal or state law, an Eligible Local Exchange Telecommunications Service Provider experiences a reduction in costs, upon approval by the Administrator or the Commission, upon reconsideration, the provider shall reduce the level of OUSF funding it receives to a level sufficient to account for the reduction in costs to bring the company back to the approved earnings level based on a full review of the company’s books and records.

3. The receipt of funding from the OUSF, except for reimbursement for OLF credits described in paragraph (F)(1)(c) of this subsection, and reimbursement for infrastructure expenditures described in (F)(1)(b) of this subsection, for the changes referred to in this subsection shall be conditioned upon an earnings investigation by the Administrator or, upon reconsideration, the Commission as described in subsection (G) of this Section. After conducting the earnings investigation, the Administrator or the Commission, upon reconsideration, shall approve the request for payment or adjustment of payment from the OUSF based on a determination that such payment will result in local service rates which are reasonable, and affordable, the provision of reasonably comparable services at affordable rates in rural areas as in urban areas and will be in the public interest.

4. All OUSF funding being received by an Eligible Local Exchange Telecommunications Service Provider at the time of the enactment of this subsection, with the exception of funds being received for OLF credits described in paragraph (F)(1)(c) of this subsection, reimbursement for infrastructure expenditures described in (F)(1)(b) of this subsection, reimbursement for Special Universal Services described in section 139.109.1 of this title, and Oklahoma High Cost Fund reimbursements that is not based on a prior earnings investigation, will cease thirty (30) days after enactment of this subsection. Any Eligible Local Exchange Telecommunications Service Provider impacted by this cessation of funding, may file an application for an earnings investigation under this subsection. Such application will be based on the most recent cost study available at the time the application is filed. Impacts may be imputed, subject to true up and refund, based on the most recent cost study adjusted for current account balances. True up would occur in the future period once the cost study is finalized and available for the fiscal year in which the reduction occurred. If an Eligible Local Exchange Telecommunications Service Provider files such an application within thirty (30) days of the enactment of this subsection, such previous funding not based on a prior earnings investigation will cease one hundred and eighty (180) days after enactment of this subsection or upon the completion of an earnings investigation, whichever is earlier. Reimbursements related to the Oklahoma High Cost Fund, as ordered in Oklahoma Corporation Commission Order No. 673325, will cease March 1, 2022. Any future lost revenues associated with the Oklahoma High Cost Fund may be considered through an earnings investigation pursuant to Section G below.

~~H.~~ G. 1. ~~In identifying and measuring the costs of providing primary universal services, exclusively~~ Exclusively for the purpose of an earnings investigation required in determining OUSF funding levels under this ~~section~~ Section, the ~~eligible local exchange telecommunications service provider~~ Eligible Local Exchange Telecommunications Service Provider serving less than seventy-five thousand access lines shall, identify and measure the costs of providing Primary Universal Services and the revenues available to fund said services by, at its option, using one of the following methods:

~~1.~~ a. Calculate such costs by including all embedded investments and expenses incurred by the ~~eligible local exchange telecommunications service provider~~ Eligible Local Exchange Telecommunications Service Provider in the provision of ~~primary universal service~~ 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. Such calculation may be made using fully distributed Federal Communications Commission parts 32, 36 and 64 costs, if such parts are applicable. The high-cost area shall be no smaller than a single ~~exchange~~ Exchange, ~~wire center~~ Wire Center, or census block group, chosen at the option of the ~~eligible local exchange telecommunications service provider~~ Eligible Local Exchange Telecommunications Service Provider;

~~2.~~ b. Adopt the cost studies approved by the Commission for a ~~local exchange telecommunications service provider~~ Local Exchange Telecommunications Service Provider that serves seventy-five thousand or more access lines; ~~or~~

~~3.~~ c. Adopt such other costing or measurement methodology as may be established for such purpose by the Federal Communications Commission pursuant to Section 254 of the federal Telecommunications Act of 1996~~.~~; or

d. Eligible Local Exchange Telecommunications Service Providers with Carrier of Last Resort obligations, may also elect to identify all of its embedded investments and expenses incurred in the provision of Regulated Telecommunications Services, including Primary Universal Service, in its Oklahoma local exchange area, regardless of the jurisdiction authorizing the services provided; and to identify all of its regulated revenues received from the provision of services, regardless of the jurisdiction authorizing the funding, including total revenue from retail services, wholesale services, intercarrier compensation, grants, all federal universal service support and all Oklahoma support, including but not limited to, Oklahoma High Cost Fund and OUSF support. Selection of this option will result in funding from the OUSF based on the regulated total company revenue deficiency, regardless of jurisdictional allocations of costs or revenues.

2. Regardless of the option selected, in section (G)(1) above, by the Eligible Local Exchange Telecommunications Service Provider, when conducting the earnings investigation, the OUSF Administrator or the Commission, upon reconsideration, may:

a. Determine the reasonableness of any investment or expense including, but not limited to;

(i) affiliate transactions involving the provision of regulated services to an affiliate of the Eligible Local Exchange Telecommunications Service Provider and all of the costs and revenues of the Eligible Local Exchange Telecommunications Service Provider associated with the provision of regulated services to the affiliate, regardless of their jurisdictional nature;

(ii) employee compensation, employee expenses and the allocation methodology for any shared employees;

 (iii) capital investment in network;

 (iv) capital investment in operations;

 (v) operational expenses;

 (vi) legal / regulatory expenses;

 (vii) marketing and community outreach expenses;

(viii) depreciation schedules and methodology are consistent with Federal Communications Commission requirements and are being applied appropriately; and

 (ix) cost of capital.

 b. Impute additional revenues to the extent:

(i) retail rates for local service are below the last rate floor benchmark established by the Federal Communications Commission or as the OUSF Administrator recommends and the Commission approves, after notice and hearing, a standard Oklahoma rate floor; and/or

(ii) the OUSF Administrator determines the provider failed to secure funding from reasonably available state or federal funding sources established for the provision of universal services.

~~I.~~ H. In identifying and measuring the cost of providing ~~primary universal services~~ Primary Universal Services, and exclusively for the purpose of determining OUSF funding levels pursuant to this ~~section~~ Section, other than pursuant to Subsection (G)(1)(d) of this Section, each ILEC which serves seventy-five thousand 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 ~~H~~ G of this ~~section~~ Section. The high-cost area shall be no smaller than a single ~~exchange~~ Exchange, ~~wire center~~ Wire Center or census block group chosen at the option of the eligible ILEC or CLEC. If the Administrator or the Commission, upon reconsideration, fails to approve the selected methodology within one hundred twenty (120) days of the filing of the selection, the selected methodology shall be deemed approved.

~~J.~~ I. The Commission may by rule expand ~~primary universal services~~ Primary Universal Services to be supported by the OUSF, after notice and hearing. The Administrator, upon approval of the Commission, shall determine the level of additional OUSF funding to be made available to an ~~eligible local exchange telecommunications service provider~~ Eligible Local Exchange Telecommunications Service Provider which is required to recover the cost of any expansion of universal services.

J. 1. Each request for OUSF funding by an Eligible Local Exchange Telecommunications Service Provider serving less than seventy-five thousand access lines made pursuant to subsection (F)(1)(b) of this Section and involving a Facilities addition, move, or change involving physical network elements specifically required for the delivery of Primary Universal Services, shall be approved by the OUSF Administrator or, the Commission, upon reconsideration, upon a showing that:

a. The expenditures for which reimbursement is requested were the result of a governmental entity mandate;

b. To the extent outside labor resources are utilized, such resources were acquired at market prices or, if supplied in-house or by an affiliate, at the lower of market prices or actual costs;

c. The expenditures for which reimbursement is requested are directly related to the mandated facility addition, move, or change;

d. The costs of materials utilized in accomplishing the mandated facility addition, move, or change are reasonably comparable to the costs the Eligible Local Exchange Telecommunications Service Provider incurs in its own operations for the same or similar materials;

e. The requested funding from the OUSF is limited to reimbursement for the replacement cost of the Facilities, exclusive of any unreasonable betterment; and

f. The requested funding from the OUSF does not include costs recovered from other sources or changes resulting from changes in federal or state law or regulation that reduces revenues or expenses.

2. The Administrator or the Commission, upon reconsideration, shall approve the request for reimbursement from the OUSF based on a determination that the factors in (J)(1)(a)-(f) have been satisfied. Such determination will be subject to subsections (C)(4) and (C)(7)(c) of this Section.

3. If the OUSF Administrator or the Commission, upon reconsideration, identifies any deficiencies in the factors in (J)(1)(a)-(f), such deficiencies shall be identified and reflected in the OUSF Administrator’s determination or, upon reconsideration, the Commission’s Final Order, including, but not limited to, adjusting the reimbursement amount requested to reflect said deficiencies.

[Section (K) - REPEALED]

~~K. 1. Each request for OUSF funding by an eligible ILEC serving less than seventy-five thousand access lines shall be premised upon the occurrence of one or more of the following:~~

~~a. in the event of a Federal Communications Commission order, rule or policy, the effect of which is to decrease the federal universal service fund revenues of an eligible local exchange telecommunications service provider, the eligible local exchange telecommunications service provider shall recover the decreases in revenues from the OUSF,~~

~~b. if, as a result of changes required by existing or future federal or state regulatory rules, orders, or policies or by federal or state law, an eligible local exchange telecommunications service provider experiences a reduction in revenues or an increase in costs, it shall recover the revenue reductions or cost increases from the OUSF, the recovered amounts being limited to the net reduction in revenues or cost increases, or~~

~~c. if, as a result of changes made as required by existing or future federal or state regulatory rules, orders, or policies or by federal or state law, an eligible local exchange telecommunications service provider experiences a reduction in costs, upon approval by the Commission, the provider shall reduce the level of OUSF funding it receives to a level sufficient to account for the reduction in costs.~~

~~2. The receipt of OUSF funds for any of the changes referred to in this subsection shall not be conditioned upon any rate case or earnings investigation by the Commission. The Commission shall, pursuant to subsection D of this section, approve the request for payment or adjustment of payment from the OUSF based on a comparison of the total annual revenues received from the sources affected by the changes described in paragraph 1 of this subsection by the requesting eligible local exchange telecommunications service provider during the most recent twelve (12) months preceding the request, and the reasonable calculation of total annual revenues or cost increases which will be experienced after the changes are implemented by the requesting eligible local exchange telecommunications service provider.~~

[Section (L) - REPEALED]

~~L. Upon request for OUSF funding by an ILEC serving seventy-five thousand or more access lines or a CLEC, the Commission shall after notice and hearing make a determination of the level of OUSF funds, if any, that the provider is eligible to receive for the purposes contained in subsection K of this section. If the Commission fails to make a determination within one hundred twenty (120) days of the filing of the request, the request for funding shall be deemed approved.~~

M. The ~~incumbent local exchange telecommunications service provider~~ 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 ~~local exchange telecommunications service provider~~ Local Exchange Telecommunications Service Provider eligible for OUSF funding within the local exchange area, except as otherwise provided for in this ~~act~~ Act.

N. 1. Where the ~~incumbent local exchange telecommunications service provider~~ Incumbent Local Exchange Telecommunications Service Provider receives or is eligible to receive monies from the OUSF, except as otherwise provided in this ~~section~~ Section, the Commission, after notice and hearing, may designate other ~~local exchange telecommunications service providers~~ Local Exchange Telecommunications Service Provider to be eligible for the funding, provided:

a. the other ~~local exchange telecommunications service provider~~ Local Exchange Telecommunications Service Provider is certificated by the Commission to provide and offers the ~~primary universal services~~ Primary Universal Services supported by the OUSF to all customers in the universal service area designated by the Commission, using its own ~~facilities~~ Facilities, or a combination of its own ~~facilities~~ Facilities and the resale of the services or ~~facilities~~ Facilities of another and has been designated as an Eligible Telecommunications Carrier. Universal service support under this subsection shall not begin until the other ~~local exchange telecommunications service provider~~ Local Exchange Telecommunications Service Provider has ~~facilities~~ Facilities in place,

b. the other ~~local exchange telecommunications service provider~~ Local Exchange Telecommunications Service Provider may only receive funding for the portion of the ~~facilities~~ Facilities that it owns, maintains, and uses for ~~regulated services~~ Regulated Services,

c. the other ~~local exchange telecommunications service provider~~ 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~~ Incumbent Local Exchange Telecommunications Service Provider is eligible to receive for the same area if the ~~incumbent local exchange telecommunications service provider~~ 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,

d. the other ~~local exchange telecommunications service provider~~ Local Exchange Telecommunications Service Provider advertises the availability and charges for services it provides through a medium of general distribution, and

e. it is determined by the Commission that the designation is in the public interest and the other ~~local exchange telecommunications service provider~~ Local Exchange Telecommunications Service Provider is in compliance with all Commission rules for which a waiver has not been granted. The public interest determination will include consideration of whether the other Local Exchange Telecommunications Service Provider has a COLR obligation in the area for which funding is requested. Further, the public interest may require funding be limited to areas lacking Primary Universal Service. Such other Local Exchange Telecommunications Service Provider may challenge the Administrator’s determination that Primary Universal Service is available from a qualified provider in a particular geographic area by providing detailed proof of the lack of Primary Universal Services in a geographic area.

2. Notwithstanding the criteria set forth in this section for designation as an ~~eligible local exchange telecommunications service provider~~ Eligible Local Exchange Telecommunications Service Provider eligible to receive funding from the OUSF, a commercial mobile radio service provider that has been designated as an Eligible Telecommunications Carrier may, without being designated as an Eligible Local Exchange Telecommunications Service Provider and after notice and hearing, seek reimbursement from the OUSF for the provision of services supported by the OUSF consistent with Section 139.106 of this Title, and any ~~telecommunications carrier~~ Eligible Telecommunications Carrier may seek reimbursement from the OUSF for the provision of Lifeline Service consistent with Section 139.105 of this ~~title~~ Title and any Eligible Provider or commercial mobile radio service provider may seek reimbursement from the OUSF for the provision of Special Universal Services consistent with Section ~~6~~ 139.109.1 of this ~~act~~ Title.

O. In ~~exchanges~~ Exchanges or ~~wire centers~~ Wire Centers where the Commission has ~~designated~~ granted more than one ~~local exchange telecommunications service provider~~ Local Exchange Telecommunications Service Provider as eligible ~~for~~ to receive OUSF funding pursuant to § 139.106, the Commission shall permit one or more of the ~~local exchange telecommunications service providers~~ Local Exchange Telecommunications Service Providers in the area to relinquish ~~the designation~~ its eligibility, as ~~a local exchange telecommunications service provider~~ Local Exchange Telecommunications Service Provider, ~~eligible for~~ to receive OUSF funding pursuant to § 139.106 and its ETC designation in a manner consistent with Section 214(e)(4) of the federal Telecommunications Act of 1996, upon a finding that at least one ~~eligible local exchange telecommunications service provider~~ Eligible Local Exchange Telecommunications Service Provider is eligible to receive funding from the OUSF pursuant to § 139.106, has been designated as an ETC, and shall continue to assume the ~~carrier-of-last-resort~~ Carrier of Last Resort obligations throughout the area.

P. For any area served by an ~~incumbent local exchange telecommunications service provider~~ Incumbent Local Exchange Telecommunications Service Provider which serves less than seventy-five thousand access lines within the state, only the ~~incumbent local exchange telecommunications service provider~~ Incumbent Local Exchange Telecommunications Service Provider shall be eligible for OUSF funding except:

1. Other ~~eligible telecommunications carriers~~ Eligible Providers or Eligible Telecommunications Carriers which provide Special Universal Services or Lifeline Service shall be eligible to request and receive OUSF funds for those services in the same manner as the ~~incumbent local exchange telecommunications service provider~~ Incumbent Local Exchange Telecommunications Service Provider in the same area pursuant to the Oklahoma Telecommunications Act of 1997; or

2. The ~~incumbent local exchange telecommunications service provider may elect~~ Incumbent Local Exchange Telecommunications Service Provider has elected to waive the right to be the only ~~eligible local exchange telecommunications service provider~~ Eligible Local Exchange Telecommunications Service Provider eligible to receive monies from the OUSF for the provision of Primary Universal Service within ~~the~~ its local exchange area by filing notice with the Commission~~; or~~.

3. When an Incumbent Local Exchange Telecommunications Service Provider serving less than seventy-five thousand access lines within the state elects to waive the right pursuant to paragraph 2 of subsection P of this section, the Commission, after notice and hearing, ~~makes~~ may make a determination that it is in the public interest that another ~~local exchange telecommunications service provider~~ 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~~  eligible to receive monies from the OUSF for the provision of Primary Universal Services. Such other Local Exchange Telecommunications Service Provider shall hold designation as an Eligible Telecommunications Carrier and have Carrier of Last Resort obligations within the local exchange areas for which it will be eligible to receive monies from the OUSF. It shall not be in the public interest to designate another ~~local exchange telecommunications service provider~~ Local Exchange Telecommunications Service Provider, holding Eligible Telecommunications Carriers designation, as being a ~~carrier of last resort~~ 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~~ Telecommunications Services generally or if the other carrier refuses to seek and accept ~~carrier-of-last-resort~~ Carrier of Last Resort obligations throughout the universal service area as designated by the Commission. The other ~~local exchange telecommunications service provider Local~~ Exchange Telecommunications Service Provider, if determined to be eligible, shall not be eligible to receive OUSF funding at a level higher than the level of funding the ~~incumbent local exchange telecommunications service provider is~~ Incumbent Local Exchange Telecommunications Service Provider was 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~~ The other ~~local exchange telecommunications service provider meets~~ Local Exchange Telecommunications Service Provider must meet the requirements of subparagraphs a, b, d and e of paragraph 1 of subsection N of this section.