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COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

Filed July 29, 2019 in PUD 201800066

To: Current Members of the Oklahoma Legislature
From: Corporation Commissioner Bob Anthony *Bob*

Re: Legislators get complaints about massive increase in telephone surcharge

Oklahoma telephone customers are beginning to notice 400-500% increases in a surcharge on landline and mobile phone bills – the OUSF, or Oklahoma Universal Service Fund, fee. (In July 2019, the monthly OUSF fee charged on my personal phone bill jumped to \$3.95 compared to just 75 cents the month before. On another company's bill, the OUSF fee rose from 57 cents a month to \$3.26, a 472% increase.) The cost of the OUSF to Oklahoma phone customers has now reached \$53 million annually, with even higher surcharges soon to follow.

Who is getting that \$53 million? And should current members of the Oklahoma Legislature care if **a few dozen Oklahoma independent phone companies, on average, receive subsidy payments of a million dollars annually without having to publicly disclose the most basic fundamentals of their business?** What if it were found that some of this \$53 million annual subsidy enables \$150,000+ compensation/benefit packages for numerous family members of an independent telephone company's ownership? (Testimony by a Corporation Commission expert in a recent OUSF case said salary expense paid to several of the "corporate officers" of one of these small telephone companies "seems exorbitant.") Unfortunately, if fee-paying customers or even the news media inquire, they will probably be told this kind of information is "confidential."

Our state's OUSF has many worthy beneficiaries, including technology for schools, libraries, rural health care and low-income households. However, the 1997 Oklahoma Legislature also foisted a costly "make whole provision" (17 O.S. Sec. 139.106(K)) on the OUSF law whereby many independent telephone companies can demand money from the OUSF if any state or federal government actions cause any of their costs to go up or their revenues to go down. But your constituents now see who ultimately pays - - they do!

And the worst is yet to come. FCC reports show federal Universal Service payouts in Oklahoma of \$268 million for 2017, down from \$289 million in 2016. Note not only the huge amounts but also the downward trend. (Federal subsidy rules for telephone universal service payments have begun disallowing things like the private airplanes or office art work of subsidized companies.) Because of Oklahoma's statutory "make whole provision," if these federal funds continue to decrease or get redirected to broadband rollout, our state OUSF will likely have to make up the difference. The result will be unbelievably higher surcharges that will largely benefit the owners of a couple dozen privileged independent telephone companies who had good ol' boy buddies in the legislature back in 1997.

DAILY OKLAHOMAN

Universal Service Fund increase generates calls to Corporation Commission, lawmakers



by JACK MONEY

Published: Wed, July 3, 2019 1:04 AM Updated: Wed, July 3, 2019 1:25 AM

Oklahomans who are upset about phone bill increases tied to a hike in the Oklahoma Universal Service Fund fee are phoning in their complaints.

The Oklahoma Corporation Commission, the state agency that sets the fee, already is hearing about consumers who are letting both the agency and state lawmakers know they don't like the increase, which took effect July 1.

"We already are getting calls," commission spokesman Matt Skinner said Tuesday. "As more people get their bills, we expect the number of calls will increase."

Agency officials aren't surprised.

Indeed, Corporation Commissioner Bob Anthony warned earlier this year that consumers would dislike the increase as much as he dislikes the fee itself.

Plus, both he and Commission Chairman Todd Hiatt have said they worry demands on the state's fund will continue to grow as the federal government redirects money it assesses on telephone company revenues for a companion Federal Universal Service Fund from phone to broadband services.

"This could very likely be a runaway train," Hiatt previously said, after commissioners had voted to approve seven reimbursement requests it previously had denied.

Commissioners reconsidered the requests after being told by Oklahoma's Supreme Court those denials violated Oklahoma law.

"We have exhausted all of the resources we have at the commission to try to rein it in and protect consumers. I hope the Legislature is paying attention," Hiatt said.

To account for those reversals and to meet expected needs for the current fiscal year, commissioners increased the Oklahoma Universal Service Fund fee from 1.2% to 6.28%. Including the increase, the fee is expected to raise about \$54 million for the year.

Phone companies collect the fee off revenues they get from customers who pay for mobile and landline phone services.

Throughout the year, phone companies (particularly ones in rural parts of the state) make requests for reimbursements from the fund to help keep their rates affordable for customers.

Dollars from the fund also can be allocated to companies that provide internet services at public libraries, public schools and nonprofit hospitals.

Reimbursement requests involve extensive reviews of company records by the fund's administrator, a commission employee who determines whether reimbursements should be made.

The administrator's decision is final, unless the company seeking the reimbursement or a competitor asks for it to be reviewed.

Even after the hike in Oklahoma's Universal Service Fund fee, its percentage still isn't nearly as large as the one assessed by the Federal Communications Commission for its universal service fund.

However, the FCC's assessment only is made on revenue phone companies get from customers who pay for interstate communication services.

As for the assessments, not all phone companies pass along those charges to customers on their bills.

Officials said most companies that provide fixed phone services identify the assessments on customers' bills, while most that provide wireless or prepaid phone services don't.

Anthony doesn't like language in Oklahoma's statute that allows independent telephone companies to tap the fund for reimbursements when an action by the state or federal government increases their costs or reduces their revenues.

Additionally, he is critical of the law that created the fund because it shields companies seeking reimbursements from the fund from a full public review of their revenues, numbers of customers served, expenses and other items deemed proprietary by commission rules and state law.

Earlier this year, Anthony noted the agency was told by AT&T that it would increase an average phone customer's bill by \$3.19 a month to account for the increased fund assessment.

"When that happens, people are going to want to know what's behind this," Anthony said, at the time.

"And we are going to have to tell them, 'Sorry, we have a bunch of rules and aren't going to tell you.'"

<https://oklahoman.com//article/5635319/universal-service-fund-increase-generates-calls-to-corporation-commission-lawmakers>

Bob Anthony

From: Kathy Townsend <townsendk@lsb.state.ok.us>
Sent: Thursday, July 18, 2019 1:35 PM
To: Bob Anthony
Subject: FW: To Senator Julie Daniels, OK Universal Service Fee 486% Rate Increase Effective July 1, 2019

Mr. Anthony,

Senator Daniels asked me to forward this constituent inquiry to the Corporation Commission for a response. I appreciate your help in the follow-up.

Kathy Townsend,
Executive Assistant
Senator Julie Daniels, District 29
2300 N. Lincoln Boulevard,
Oklahoma City, OK 73105
(405)521-5634

-----Original Message-----

From: crlapre@yahoo.com [mailto:crlapre@yahoo.com]
Sent: Tuesday, July 16, 2019 4:34 PM
To: julie.daniels@oksenate.gov
Subject: To Senator Julie Daniels, OK Universal Service Fee 486% Rate Increase Effective July 1, 2019

OK Universal Service Fee 486% Rate Increase Effective July 1, 2019 on my ATT Phone Bill is very disturbing to me. As I understand it the Oklahoma Corporation Commission had to approved this increase. I thought that the commission was there to protect the rate payers in this state!! They really missed the boat on this one. Your comments on the justification for this rate increase would be greatly appreciated. Thank You!!

Charles
P.O. Box 2392
Bartlesville, OK 74005

Agency weighs secrecy policy for firms' reports

BY CURTIS KILLMAN
World Staff Writer

The state Corporation Commission is considering whether to continue its practice of keeping confidential certain reports submitted by utility companies.

At issue is whether annual reports submitted to the commission by telecommunications compa-

nies should be shielded from public view. The commission closed the annual reports to the public in 2004.

The commission's own attorney is calling for the 2004 order to be overturned, saying the original decision to close the records is overly broad and "absurd."

Meanwhile, the state Attorney General's Office issued an opinion

stating that the commission could determine what public utility information to keep confidential so long as it protects "public utility records that it determines constitute confidential books and records or trade secrets."

The matter will be heard Thursday by a Corporation Commission administrative law judge. The judge's recommendation will

be considered later by the three-member commission.

The issue came up in June after a Corporation Commission administrator asked for an order determining what information contained in the annual reports should be deemed proprietary, confidential and competitively sensitive in ac-

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cordance with the state Open Records Act.

The administrator, Public Utility Division Director David Dykeman, said he had noticed that many so-called protective orders aimed at guarding the confidentiality of records submitted by telecommunications service providers had become "vague and broad."

The Corporation Commission's general counsel issued a brief stating the 2004 order should be overturned because it applied a blanket justification toward keeping annual reports confidential.

"The Open Records Act requires an individualized determination of whether a specific utility's information should be protected from public scrutiny," Andrew

Tevington, general counsel, wrote in the brief filed with the case.

Tevington noted that the reports contain otherwise public information about companies such as entity name, business address and names of the board of directors.

"What is sensitive and in need of protection about the name of a company?" Tevington wrote. "What is sensitive about whether a company is a limited liability company or a corporation?"

"The scope of the order is absurd," Tevington said, referring to the 2004 decision.

"The existing order is overbroad both as to the number of entities it covers and as to the type of information it covers," Tevington said. "It goes against the state's policy that records will be open unless a good, supportable, individualized reason exists otherwise."

Joey Senat, Oklahoma State University journalism professor, said much of the information contained in the annual reports is "just basic information," including how certain public funds are spent.

"I don't see what the problem would be in providing this," he said.

"I don't think overly burdensome should be the criteria for whether this stuff is open or not," Senat said. "We need to know how the public funds are being spent."

But another Corporation Commission administrator noted that the current policy has worked well for seven years.

"An alternative would be to have each of the approximately 350 telecommunications providers active in the state coming in every year to seek a protective order for information filed in the annual report, or seeking wait-

ers from furnishing parts of the information," said Larry Lago, public utility analyst for the commission. "Either would make it much more difficult and time consuming for staff to receive the needed information."

William Humes, state assistant attorney general, in an opinion filed in the case, said it is up to the commission to determine what public utility information is confidential.

Nothing in the Open Records Act dictates or restricts the manner in which the commission makes such a determination, Humes wrote. Decisions can be made on a "case-by-case basis particular to a specific utility" or by determining that a category or type of information is confidential as applied to several utilities, as in the case of the annual reports, he wrote.

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BUSINESS

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Regulators debate transparency

By Jack Money
Business Writer
jmoney@oklahoman.com

Landline, wireless and Voice over Internet Protocol phone service users in Oklahoma pay monthly state and federal universal service fund fees.

Companies' requests for reimbursements from the Oklahoma Universal Service Fund (OUSF) are intended to help those companies keep services affordable for customers in rural Oklahoma.

Those requests involve extensive reviews by the state's fund administrator, who examines what the money is needed for and using

business records deemed confidential by the state law and commission rules governing the fund's use.

But on Tuesday, elected members of the Oklahoma Corporation Commission discussed whether more records related to those requests should be public.

The issue was brought up for discussion by Commissioner Bob Anthony, who is critical of the state law that created the fund and believes members of the public have a right to know specific details (like the number of customers served) about companies that request the aid.

"I think we have the lid

down pretty tight, that we don't have much openness or transparency," Anthony said.

Commissioners have dealt with the universal service fund issue twice in the past 60 days.

First, they agreed in early May with fund administrator Brandy Wreath, director of the commission's Public Utility Division, to increase the assessment on revenues collected by companies serving Oklahoma customers for from 1.2% to 6.28%.

The increase takes effect July 1 and is expected to raise about \$54 million for the fund to meet anticipated reimbursement requests during the coming fiscal year. The

increase also was needed to provide relief to two companies whose past requests for fund dollars were denied by the commission, but reversed by Oklahoma's Supreme Court.

Dollars from the fund also are allocated to public libraries, public schools and nonprofit hospitals throughout Oklahoma that supply their users with internet services.

The new state assessment rate, combined with the assessment collected for the Federal Universal Service Fund (administered by federal

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A16 Wednesday, June 12, 2019 THE OKLAHOMAN | OKLAHOMAN.COM

DEBATE

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authorities), boosts total assessments on phone companies' revenues to greater than 28% (the federal government assessment is 22%).

As for the assessments, all phone companies are required to pay those into both Oklahoma's and the federal funds, but not all phone companies pass along those charges to customers on their bills.

Still, Anthony noted Tuesday the commission already has heard from AT&T that it will increase an average phone customer's bill by \$3.19 a month to

substantial assessment increase is in part because of an unwillingness by commissioners to increase the rate in past years to meet ongoing funding commitments.

"You have to take all of it in context," Murphy said.

Commission Chairman Todd Hiett, meanwhile, said he agreed in part with Anthony's arguments, but added companies also are required to provide telecommunication services to customers in their service territories.

"I have a hard time reconciling that," Hiett said, adding that he didn't believe the law had not been well thought out. "We are kind of stuck with it right now."

Mark Thomas, executive vice president of

the Oklahoma Press Association, said this week he understands Anthony's concerns.

While Thomas said the statute creating the fund appears to protect requesting companies' records, he said it also gives commissioners discretion to determine what are "confidential books, records or trade secrets."

"There are some records that probably should be confidential, but the scales are certainly tipped in the direction of secrecy at this point in time," Thomas said.

"More transparency about records of these public utilities, particularly about those who are getting massive amounts of money such from the Universal Service Fund, is in order."

Table 1.9
Universal Service Support Mechanisms by State: 2017
(Annual Payments and Contributions in Thousands of Dollars)

	Payments from USF to Providers					Total		Estimated Contributions ³		Estimated Net Dollar Flow ⁴
	High-Cost Support ²	Low-Income Support	Schools & Libraries	Rural Health Care	Total		Amount	% of Total		
					Amount	% of Total				
Alabama	\$ 56,544	\$ 17,514	\$ 81,335	\$ 2,142	\$ 157,536	1.77 %	\$ 124,423	1.37 %	\$ 33,112	
Alaska	206,019	4,202	40,620	96,270	347,112	3.91	23,348	0.26	323,764	
American Samoa	3,264	108	26,535	0	29,908	0.34	775	0.01	29,133	
Arizona	74,246	39,946	1,199	3,956	119,347	1.34	186,198	2.05	-66,851	
Arkansas	113,396	9,492	61,596	5,445	189,929	2.14	76,573	0.84	113,356	
California	145,319	201,222	370,520	12,176	729,236	8.21	1,011,952	11.14	-282,716	
Colorado	65,135	8,505	27,279	8,455	109,375	1.23	171,802	1.89	-62,427	
Connecticut	447	11,818	21,783	265	34,313	0.39	120,434	1.33	-86,122	
Delaware	228	3,377	6,819	0	10,423	0.12	35,560	0.39	-25,137	
District of Columbia	0	3,922	6,854	0	10,776	0.12	53,031	0.58	-42,255	
Florida	57,775	78,777	132,689	3,633	272,874	3.07	549,555	6.05	-276,681	
Georgia	113,626	44,167	93,819	6,370	257,982	2.90	282,336	3.11	-24,354	
Guam	10,803	114	282	46	11,246	0.13	4,319	0.05	6,927	
Hawaii	4,424	1,904	8,896	39	15,263	0.17	40,116	0.44	-24,853	
Idaho	45,744	1,647	21,140	1,773	70,303	0.79	43,359	0.48	26,945	
Illinois	111,962	39,812	13,102	3,745	168,621	1.90	361,741	3.98	-193,120	
Indiana	115,542	20,134	120,868	9,906	266,450	3.00	169,364	1.86	97,087	
Iowa	190,193	7,172	64,581	3,351	265,296	2.99	90,359	0.99	174,937	
Kansas	166,969	6,307	22,210	3,791	199,276	2.24	76,681	0.84	122,595	
Kentucky	144,028	23,038	38,396	4,030	209,493	2.36	122,243	1.35	87,249	
Louisiana	87,875	25,072	56,305	2,388	171,640	1.93	117,100	1.29	54,541	
Maine	31,835	3,604	40,593	1,370	77,402	0.87	40,393	0.44	37,009	
Maryland	3,638	20,395	20,050	194	44,276	0.50	215,460	2.37	-171,184	
Massachusetts	2,350	20,746	9,956	488	33,541	0.38	209,226	2.30	-175,685	
Michigan	100,507	45,962	55,315	3,557	205,341	2.31	243,657	2.68	-38,316	
Minnesota	201,491	10,791	35,947	2,706	250,935	2.83	167,778	1.85	83,158	
Mississippi	178,851	13,466	41,901	6,591	240,810	2.71	68,061	0.75	172,749	
Missouri	172,859	14,416	1,052	5,139	193,466	2.18	169,727	1.87	23,739	
Montana	116,510	1,354	26,012	871	144,747	1.63	32,271	0.36	112,476	
Nebraska	109,622	802	6,942	4,279	121,645	1.37	60,971	0.67	60,675	
Nevada	17,447	10,486	97,910	453	126,296	1.42	79,260	0.87	47,036	
New Hampshire	13,133	1,622	4,741	732	20,228	0.23	44,328	0.49	-24,099	
New Jersey	1,011	24,792	11,044	0	36,846	0.41	315,212	3.47	-278,365	
New Mexico	78,006	20,278	3,454	3,121	104,860	1.18	58,159	0.64	46,700	
New York	54,857	87,266	67,785	4,433	214,341	2.41	594,382	6.54	-380,041	
North Carolina	67,853	31,360	33,157	5,817	138,187	1.56	276,409	3.04	-138,222	
North Dakota	124,517	1,651	9,886	1,220	137,275	1.55	23,104	0.25	114,171	
N. Mariana Islands	3,209	343	93,828	0	97,380	1.10	889	0.01	96,491	
Ohio	83,689	53,326	86,409	3,541	226,964	2.56	312,052	3.44	-85,088	
Oklahoma	144,712	64,870	51,789	6,802	268,173	3.02	91,799	1.01	176,374	
Oregon	81,516	5,391	27,919	3,435	118,261	1.33	108,633	1.20	9,628	
Pennsylvania	68,669	53,323	82,101	2,109	206,201	2.32	397,960	4.38	-191,759	
Puerto Rico	172,708	57,850	36,453	10	267,021	3.01	93,369	1.03	173,652	
Rhode Island	30	4,569	5,537	0	10,136	0.11	29,520	0.32	-19,384	
South Carolina	104,544	18,463	38,803	3,030	164,839	1.86	133,004	1.46	31,835	
South Dakota	98,331	1,891	5,469	722	106,412	1.20	25,399	0.28	81,013	
Tennessee	84,903	28,685	108,641	3,089	225,317	2.54	173,821	1.91	51,496	
Texas	279,287	72,255	243,586	10,263	605,391	6.82	650,235	7.16	-44,844	
Utah	36,518	3,732	21,046	1,011	62,307	0.70	73,154	0.81	-10,847	
Vermont	19,999	1,721	48,173	323	70,216	0.79	23,729	0.26	46,486	
Virgin Islands	24,827	258	3,089	0	28,174	0.32	7,002	0.08	21,172	
Virginia	87,356	16,760	4,534	4,901	113,551	1.28	267,098	2.94	-153,546	
Washington	80,435	17,276	40,458	1,346	139,515	1.57	195,265	2.15	-55,751	
West Virginia	57,337	9,308	45,349	1,639	113,634	1.28	59,910	0.66	53,724	
Wisconsin	215,304	18,754	19,165	10,284	263,507	2.97	162,892	1.79	100,614	
Wyoming	51,574	738	4,735	244	57,291	0.65	18,093	0.20	39,198	
Total	\$ 4,682,980	\$ 1,286,750	\$ 2,649,657	\$ 261,500	\$ 8,880,887	100.00 %	\$ 9,083,490	100.00 %	-\$ 202,603	

Notes: Figures may not add due to rounding.

¹ Data are from USAC.

² High-cost support excludes penalties from Mobility Fund and includes recovered forfeited funds for CAF-Phase I Support.

³ Contributions include administrative cost of approximately \$203 million, as shown in USAC's Annual Report. Allocation of contributions among states is an FCC staff estimate. See the Technical Appendix at <http://www.fcc.gov/encyclopedia/federal-state-joint-board-monitoring-reports>.

⁴ Net dollar flow is positive when payments from USF to carriers exceed contributions to USF. Total is negative because of administrative expenses.



ATT customers in Oklahoma to a shock when they open their next phone bill

- June 14, 2019 by Jerry Bohnen



Customers of ATT in Oklahoma will be getting a shock in the mail soon. Their contribution to finance the Oklahoma Universal Service Fund will increase nearly 5 times effective July 1.

ATT recently notified the Corporation Commission of its intent to raise the OUSF rate from the current 75 cents a month to \$3.91 a month. And other communication companies could be doing the same.

“Oklahomans should pay more attention to the obscure, yet ever-increasing OUSF charges on their phone bills,” warned Corporation Commissioner Bob Anthony in a May 8, 2019 filing about the matter.

The OUSF was created in 1997 by the legislature to provide subsidies without direct taxation for primary universal service and free services for schools, libraries, hospitals that provide telemedicine and county governments.

The Federal Communications Commission announced earlier in the week that the third quarter 2019 universal service contribution factor would be 24.4 percent. As a result, the projected program support would be \$2.2 billion for the Universal Service Fund nationwide.

How the money is spent by ATT and the numerous small independent telephone companies that provide the support is at issue before the Corporation Commission. That’s because under regulations of the commission, the details are kept private.

The public has no access to learn how many employees each small company has, nor is information provided about salaries of those workers. The companies do not have to reveal how many customers they serve.

But Commissioner Anthony also warned in his early May filing that most OUSF annual payments had provided support of internet service for schools, libraries and hospitals, the new higher amounts are going mostly to independent telephone companies and their owners. But not even he can obtain some of the private information about spending.

“Lawmakers and ratepayers both should be curious to know how many small independent telephone companies with fewer than 1,000 total customers receive annually over \$1 million each in subsidies essentially paid mostly by phone customers of ATT, Verizon, Cox and Sprint,” he wrote. “Since the Oklahoma Constitution designates telephone companies as regulated public utilities and they get multi-million dollar subsidies, shouldn’t the OUSF payouts and number of subsidized phone lines be *public*, not confidential information?”

<http://www.okenergytoday.com/2019/06/att-customers-in-oklahoma-to-a-shock-when-they-open-their-next-phone-bill/>

Fee hiked 421% on AT&T phone bills for Oklahomans in change that went into effect July 1

- Jul 25, 2019



Oklahoma AT&T customers will notice an increase on their phone bills this month. Their contribution to underwrite the Oklahoma Universal Service Fund rose almost five times, effective July 1.

AT&T recently notified the Corporation Commission that it would raise the OUSF rate from 75 cents a month to \$3.91 a month. AP file

In a May filing on the matter, Corporation Commission Bob Anthony said, "Oklahomans should pay more attention to the obscure, yet ever-increasing OUSF charges on their phone bills."

Created in 1997 by the Legislature, the Oklahoma Universal Service Fund provides subsidies without direct taxation for primary universal service and free services for schools, libraries, hospitals that provide telemedicine and county governments.

The Federal Communications Commission recently announced that the third quarter 2019 universal service contribution factor would be 24.4 percent. As a result, the projected program support would be \$2.2 billion for the Universal Service Fund nationwide.

https://www.tulsaworld.com/business/fee-hiked-on-at-t-phone-bills-for-oklahomans-in/article_2c9deab7-b35e-52be-94c7-6d041e42e1d7.html

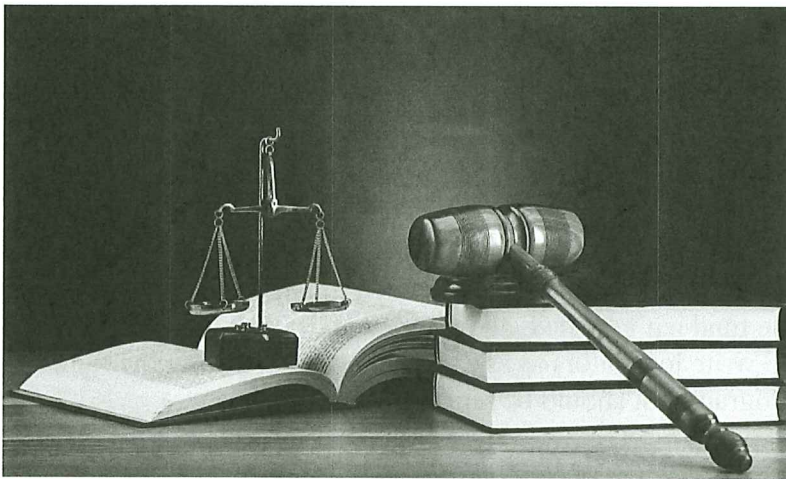
NewsOK:

Oklahoma Supreme Court orders Oklahoma Corporation Commission to honor rural phone companies' past reimbursement requests



by JACK MONEY

Published: Thu, April 18, 2019 5:00 AM



The Oklahoma Supreme Court this week sent back to the Oklahoma Corporation Commission seven cases with orders to pay reimbursements to two telephone companies.

The court considered as a group the seven cases that involved requests by Dobson Telephone Co. and Medicine Park Telephone Co. for reimbursements from the Oklahoma Universal Service Fund. The corporation commission previously denied those requests.

The Oklahoma Universal Service Fund is administered by Brandy Wreath, director of the Public Utility Division at the corporation commission. The fund is a companion to one created by Congress called the Federal Universal Service Fund.

Both collect assessments from telephone companies' revenues so they can be used to provide expense reimbursements to companies that provide telephone services to remote and rural areas to keep those services affordable for customers. It also makes payments to libraries, schools and not-for-profit hospitals to help them defer costs to provide internet to those they serve.

In the appealed cases, the companies had sought reimbursements from the fund to defray expenses they encountered either because of required line relocation projects to make way for highway improvements or to replace dollars they previously received from the federal fund, administered by the Federal Communications Commission, to support their ongoing operations.

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA

APPLICATION OF BRANDY L. WREATH,)
ADMINISTRATOR OF THE OKLAHOMA)
UNIVERSAL SERVICE FUND, SEEKING TO)
ESTABLISH AN ASSESSMENT FACTOR FOR)
THE OKLAHOMA UNIVERSAL SERVICE)
FUND)

CAUSE NO. OSF 201900036

FILED
MAY 08 2019

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

Separate Opinion of Commissioner Bob Anthony

Oklahoma telephone customers will soon pay a surcharge rate more than five times higher than existed in 2018, in part due to recent Oklahoma Supreme Court decisions. The new assessment rate for the Oklahoma Universal Service Fund (OUSF) will increase from 1.2% to 6.28% and pull in over \$53 million next fiscal year, largely from customers of Oklahoma wireless, landline, and Voice over Internet Protocol.

Oklahomans should pay more attention to the obscure, yet ever-increasing OUSF charges on their phone bills. Although previously most OUSF annual payouts provided support of internet service for schools, libraries and hospitals, the new higher amounts will now principally go to independent telephone companies and/or their owners.

A lot has changed since the OUSF was created by the Oklahoma Legislature in 1997. Lawmakers and ratepayers both should be curious to know how many small independent telephone companies with fewer than 1,000 total customers receive annually over \$1 million each in subsidies essentially paid mostly by phone customers of AT&T, Verizon, Cox and Sprint. Since the Oklahoma Constitution designates telephone companies as regulated *public* utilities and they get multi-million dollar subsidies, shouldn't the OUSF payouts and number of subsidized phone lines be *public*, not confidential information? As a Corporation Commissioner, I have asked how many rural phone company employees (occasionally in the same ownership family) have annual compensation over \$100,000 each. Federal phone subsidies have been even more generous than some state programs, but federal rules now reign in the worst abuse and disallow covering things like telephone company private airplanes and art work.

The Oklahoma OUSF statute includes the costly "make whole provision" whereby many independent telephone companies can receive money from the OUSF if state or federal government actions cause either their costs to go up or their revenues to go down. What a deal! As various federal subsidy programs have been cut back and abuses disallowed, some Oklahoma independent phone companies are already annually receiving OUSF

monies to be “made whole” for what the feds have stopped giving them. Without a monetary cap and other needed restrictions, more massive OUSF assessment increases are likely to hit Oklahoma ratepayers thanks to the dubious “make whole provision.” (Federal funds are collected from interstate and international carriers based on their revenues. Those funds are being used primarily for broadband now, forcing the states to shore up their own carriers.)

Without a formal rate case, this OUSF 6.26% assessment factor order leads to a noticeable increase to certain telephone and wireless customer bills and that warrants an explanation of the legislative scheme and recent Oklahoma Supreme Court decisions. Section 139.106 E of Title 17 of the Oklahoma Statutes allows “contributing providers” to the Oklahoma Universal Service Fund to recover OUSF charges from their retail customers. Under the new Commission order, recovery of OUSF charges results in a surcharge seen on the monthly customer bill, and the new surcharge will be several multiples of the amounts billed in 2018.

By statute, the money in OUSF is not state money. It is collected from what the statutes define as “contributing providers” generally providers of intrastate telecommunications, providers of telecommunications for a fee on a non-carrier-basis, providers of wireless telephone service and providers of interconnected Voice over Internet Protocol (VoIP), which commonly bill retail customers for the full amount of the mandatory company contributions to OUSF. Sprint and Verizon have argued OUSF money is really “state funds” and deserves a consequent higher level of care, treatment and accountability. Despite the record and arguments in the recent OUSF cases, Sprint and Verizon have not received the same Oklahoma Supreme Court determination as in the petroleum storage tank indemnity fund case *State ex rel Wright v. Oklahoma Corporation Commission*, 2007 OK 73, 170 P. 3d 1024.

OUSF charges are sometimes confusing to a retail customer, because the charge is for subsidies, and the money might go to a telephone company who is not serving the confused customer and might be serving customers in a distant telephone exchange. The Legislature set up the OUSF program by statute in 1997 to provide subsidies, without direct taxation, for primary universal service and free services for schools, libraries, hospitals that provide telemedicine, and county governments. Since 1997, the program has expanded to subsidize intrastate long distance service and even certain costs of highway relocations by city or state government. OCC rules contain requirements to seek alternative funding as a part of the OUSF application process. In its recent *Dobson* and *Medicine Park* decisions, the Oklahoma Supreme Court ruled that rural telephone companies may apply for OUSF money even before seeking federal money. Coming years will show Oklahoma phone customers just how much more they will pay using a new approach.

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