

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA

KCP

APPLICATION OF BRANDY L. WREATH,) CAUSE NO. PUD 201400001
DIRECTOR OF THE PUBLIC UTILITY)
DIVISION, OKLAHOMA CORPORATION)
COMMISSION, SEEKING TO ESTABLISH AN) ORDER NO. 641487
ANNUAL ASSESSMENT FACTOR FOR THE)
OKLAHOMA UNIVERSAL SERVICE FUND)
FOR THE FISCAL YEAR BEGINNING JULY 1,)
2014)

HEARING: April 30, 2015, in Courtroom B
2101 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105
Before Mary Candler, Administrative Law Judge

APPEARANCES: Kimberly C. Prigmore, Deputy General Counsel and Michael L.
Velez, Assistant General Counsel representing Public Utility
Division, Oklahoma Corporation Commission
John W. Gray, Jr., Attorney representing Southwestern Bell
Telephone Company, d/b/a AT&T Oklahoma
Jack G. Clark, Jr., Attorney representing Verizon companies1
Ron Comingdeer and Kendall W. Parrish, Attorneys representing
Atlas Telephone Company, et al.2
Marc Edwards and Dominic Williams, Attorneys representing Cox
Oklahoma Telcom, L.L.C.
Nancy Thompson, Attorney representing Sprint Communications
Company, L.P. et. al.3

FINAL ORDER

This Cause comes before the Oklahoma Corporation Commission
("Commission") on the Motion to Modify OUSF Factor, which was filed in the above
styled Cause.

1 MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services ("Verizon Access");
MCI Communications Services, Inc. d/b/a Verizon Business Services; Verizon Long Distance, LLC; NYNEX Long
Distance Company; TTI National, Inc.; Verizon Select Services, Inc.; and Cellco Partnership and its commercial
mobile radio service subsidiaries operating in the State of Oklahoma (Collectively, "Verizon")

2 Atlas Telephone Company, Beggs Telephone Company, Bixby Telephone Company, Inc., BTC Broadband, Inc,
Canadian Valley Telephone Company, Lakeland Cellular, Carnegie Telephone Company, Central Oklahoma
Telephone Company, Central Cellular, Inc. d/b/a COTC Connections, Cherokee Telephone Company, Chickasaw
Telephone Company, Craw Kan Telephone Cooperative, Inc., Cross Telephone Company, Cross Wireless, LLC d/b/a
Sprocket Wireless, LLC d/b/a Mobile, Cross-Valliant Cellular Partnership, Dobson Telephone Company, Hinton
Telephone Company, KanOkla Telephone Association, Lavaca Telephone Company, Inc., d/b/a Pinnacle
Communications, McCloud Telephone Company, Medicine Park Telephone Company, Oklatel Communications Inc.,
Oklahoma Western Telephone Company, Oklahoma Western Telephone Co., d/b/a OWTC Cellular d/b/a Phoenix,
Ozark Telephone Company, Panhandle Telephone Cooperative, Inc., Panhandle Telecommunication Systems, Inc.,
Pioneer Telephone Cooperative, Inc., Cellular Network Partnership d/b/a Pioneer/Enid Cellular, Santa Rosa Telephone
Cooperative, Inc., Seneca Telephone Company, Shidler Telephone Company, South Central Telephone Association,
Inc., Southwest Oklahoma Telephone Company, Terral Telephone Company, Valliant Telephone Company, Wichita
Online, Inc.

3 Sprint Spectrum, L.P. and Virgin Mobile USA, L.P. (collectively "Sprint") and tw Telecom

PROCEDURAL HISTORY

The above styled Cause was filed by Brandy L. Wreath, Director of the Public Utility Division ("PUD") on January 2, 2014, and all telecommunications carriers who may be obligated to contribute to the Oklahoma Universal Service Fund ("OUSF") were named as Respondents in this cause.

On January 2, 2014, a Motion to Establish Procedural Schedule and a Motion for Protective Order were filed. Order No. 620285, Order Granting Motion for Protective Order, was issued January 14, 2014. Order No. 620286, Order Establishing Procedural Schedule, was issued January 14, 2014.

On January 7, 2014, Southwestern Bell Telephone Company, d/b/a AT&T Oklahoma filed its Entry of Appearance. On January 8, 2014, an Entry of Appearance was filed by the Verizon companies, and by Cox Oklahoma Telecom, L.L.C. On January 10, 2014, an Entry of Appearance was filed by Atlas Telephone Company, et al. On January 28, 2014, an Entry of Appearance was filed by Sprint Communications Company, L.P., et al.

On March 6, 2014, PUD filed a Motion to Suspend Procedural Schedule.

On March 20, 2014, PUD filed a Motion to Amend Procedural Schedule. In its motion, PUD requested to withdraw its Motion to Suspend Procedural Schedule. Order No. 624051, Order Amending Procedural Schedule and Approving Withdrawal of PUD's Motion to Suspend Procedural Schedule, was issued April 17, 2014.

On March 28, 2014, Chris Herbison, OUSF Controller, filed pre-filed testimony in this Cause on behalf of the OUSF Administrator.

The hearing on the merits was held before Administrative Law Judge ("ALJ") James L. Myles on May 8, 2014, and the ALJ recommended the contribution factor of 2.16%.

On May 29, 2014, the Commission continued the OUSF Contribution Factor of .64% from fiscal year 2013 – 2014 on an interim basis in Order No. 626119.

On October 30, 2014, the Commission adopted the OUSF Contribution Factor of 2.16% in Order No. 632634.

On April 23, 2015, PUD filed a Motion to Modify the OUSF Contribution Factor.

On April 27, 2015, PUD filed the pre-filed Supplemental Testimony of Chris Herbison.

On April 30, 2015, the hearing on the Motion was held before ALJ Mary Candler.

SUMMARY OF EVIDENCE

Chris Herbison, OUSF Controller

Ms. Chris Herbison, OUSF Controller, submitted pre-filed supplemental testimony and testified at the hearing. Ms. Herbison had a correction to her testimony regarding a scrivener's error on page four (4), line eight (8) of her pre-filed supplemental testimony. Ms. Herbison stated that her testimony should read "according to the" and not "according the to."

Ms. Herbison testified that at the Hearing on the Merits in this Cause, she recommended a contribution factor of 2.16% for Funding Year ("FY") 2015, but the factor was not adopted by the Commission. Ms. Herbison further testified that on May 29, 2014, the Commission elected to continue the FY 2014 factor of .64% effective July 1, 2014, in Interim Order No. 626119. Ms. Herbison continued that on October 30, 2014, the Commission issued Interim Order No. 632364, which raised the FY 2015 factor to 2.16% to be effective immediately.

Ms. Herbison explained the impact of delaying the increase in the FY 2015 contribution factor. She stated that pursuant to 17 O.S. §139.107(B), the Commission is required to set funding at a level sufficient to maintain universal services. She testified that the delay caused the failure of the fund to adequately collect the statutorily-required funding for universal services. Ms. Herbison testified that the impact of implementing the 4.32% factor on June 1, 2015, as opposed to July 1, 2015, would be that funding based upon the new higher rate will begin to accrue more quickly.

Ms. Herbison indicated there was a notice issue associated with implementing the 4.32% factor on June 1, 2015, as opposed to July 1, 2015. She testified PUD was requesting waivers of OAC 165:55-5-11, OAC 165:56-5-12, and OAC 165:57-7-5.

Ms. Herbison testified that the fund balance as of April 24, 2015, was \$7,102,672.73, and as of April 10, 2015, the current fund deficit was \$3,237,221. Ms. Herbison explained that the deficit was calculated by taking the year-to-date ("YTD") amounts disbursed from the fund and comparing it to the YTD revenues collected from contributors to the fund. Ms. Herbison further testified that increasing the OUSF factor a month earlier than requested in Cause No. PUD 201400341 will generate about \$2 million toward meeting the demands of the OUSF and go a long way toward covering the approximate \$3 million deficit that has been calculated by GVNW.

Ms. Herbison testified that PUD recommended modifying the 2.16% contribution factor for FY 2015 to 4.32%, effective June 1, 2015, through June 30, 2015, and she indicated that the fund would collect an additional \$2,218,791.

Counsel for the Verizon companies cross examined Ms. Herbison. She testified that she was unable to quantify how insufficient the fund will be in paying anticipated claims. Ms. Herbison testified that the process of collecting funds from contributors is that within forty-five (45) days after the end of a month the contributors provide GVNW Consulting, Inc. ("GVNW") with the amount of their retail-billed intrastate

telecommunications revenues. GVNW then calculates the required payment and sends the company a bill.

Ms. Herbison testified that she was seeking a waiver of certain Commission rules which might require customer notification of this increase. However, she also acknowledged that it was a good business practice, whether the notice was required, or not, and it was in the public interest to provide such advance notice.

Ms. Herbison testified that any information regarding carriers understating their revenues in order to pay only the assessments they were able to collect from the end user was obtained from GVNW and that she had no independent knowledge to substantiate that statement. Further, Ms. Herbison testified that the Administrator took no action to verify or investigate the claim or to recover additional funding that may be due.

Ms. Herbison testified that she drafted her testimony on April 27, 2015, and that as of that date the most current information available regarding retail-billed intrastate telecommunications revenues was for the month of January 2015. Further, Ms. Herbison acknowledged that by doubling the contribution rate from 2.16% to 4.32% the expense to both residential and business customers for OUSF contributions would double.

Counsel for Atlas Telephone Company, et al. also cross-examined Ms. Herbison. On cross examination, Ms. Herbison testified that the requested waivers were necessary to reduce the time lag between issuance of the Commission's order and implementation of the new assessment factor by those companies otherwise subject to the Commission's notice requirement. Ms. Herbison further testified that the reduced time lag was essential to achieving the purpose of Staff's motion to implement the new assessment factor as soon as possible.

On redirect, Ms. Herbison testified that PUD was seeking to have the 4.32% factor to begin in June rather than July 2015. She also testified that pursuant to statute, telecommunications carriers are not required to recover the increase in the OUSF assessment factor from their customers.

No other witness testified at the hearing.

The ALJ recommended granting PUD's motion.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Commission has jurisdiction over this matter by virtue of Article IX §18 of the Oklahoma Constitution and 17 O.S. § 139.101 *et seq.*

The Commission finds that good cause was shown within the meaning of OAC 165:5-13-3(j) to allow Ms. Herbison's testimony because her pre-filed testimony was filed on April 27, 2015, less than five (5) days before the hearing.

However, the Commission hereby denies the motion and declines to modify the contribution factor from 2.16% to 4.32% for the period of June 1, 2015, through June 30,

2015. Further, the Commission finds that the current factor should remain in effect until superceded by a factor setting in Cause No. PUD 201400341 and, if the need arises in the interim, the provisions of OAC 165:59-3-60(b) should be followed.

ORDER

THE COMMISSION THEREFORE ORDERS that the OUSF contribution factor for FY 2015 remain 2.16% and further, that this factor shall remain in effect unless or until superceded by Commission order in Cause No. PUD 201400341.

OKLAHOMA CORPORATION COMMISSION

BOB ANTHONY, Chairman



DANA L. MURPHY, Vice Chairman

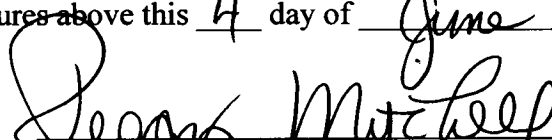


J. TODD HIETT, Commissioner

CERTIFICATION

DONE AND PERFORMED by the Commissioners participating in the making of this order as shown by their signatures above this 4 day of June 2015.

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PEGGY MITCHELL, Secretary