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**BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA**

APPLICATION OF BRANDY L. WREATH, )  
DIRECTOR OF THE PUBLIC UTILITY DIVISION, )  
OKLAHOMA CORPORATION COMMISSION, ) CAUSE NO. OSF 201800005  
SEEKING TO ESTABLISH AN ANNUAL )  
ASSESSMENT FACTOR FOR THE OKLAHOMA ) ORDER NO. 676844  
UNIVERSAL SERVICE FUND FOR THE FISCAL )  
YEAR BEGINNING JULY 1, 2018 )

HEARING: March 29, 2018, in Courtroom B  
2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105  
*Before* Dustin R. Murer, Administrative Law Judge

APPEARANCES: Kimberly C. Snyder, Deputy General Counsel *representing* Public Utility  
Division, Oklahoma Corporation Commission  
Katy Evans Boren and A. Chase Snodgrass, Assistant Attorneys General,  
*representing* Office of Attorney General, State of Oklahoma

**INTERIM ORDER**

BY THE COMMISSION:

The Corporation Commission (“Commission”) of the State of Oklahoma being regularly in session and the undersigned Commissioners present and participating, there comes on for consideration and action the Application of Brandy L. Wreath, Director of the Public Utility Division, Oklahoma Corporation Commission (“PUD”) seeking to establish an annual assessment factor for the Oklahoma Universal Service Fund (“OUSF”) for the fiscal year beginning July 1, 2018.

**I. PROCEDURAL HISTORY**

On January 12, 2018, the Application in the above-styled Cause was filed by Brandy L. Wreath, Director of PUD. All contributing providers that may be obligated to contribute to the OUSF or Oklahoma Lifeline Fund (“OLF”) pursuant to the Oklahoma Telecommunications Act of 1997, at 17 O.S. §§ 139.105, 139.106, and 139.107 were named as Respondents.

Also on January 12, 2018, PUD filed a Motion to Establish Procedural Schedule and a Notice of Hearing with a hearing date of January 25, 2018.

On January 16, 2018, the Attorney General of the State of Oklahoma (“AG”) filed an Entry of Appearance.

On January 25, 2018, the Administrative Law Judge (“ALJ”) heard and recommended the Motion to Establish Procedural Schedule.

On February 14, 2018, PUD filed The Public Utility Division's Motion to Reopen the Record on the Motion to Establish Procedural Schedule and a Notice of Hearing for February 22, 2018.

On February 22, 2018, the Commission was closed due to inclement weather so all causes scheduled for the motion docket were continued to March 1, 2018, at 8:30 a.m.

On March 1, 2018, the ALJ opened the record for the Motion to Reopen the Record on the Motion to Establish Procedural Schedule, and Counsel for PUD orally withdrew both the Motion to Establish Procedural Schedule and the Motion to Reopen the Record on the Motion to Establish Procedural Schedule. Instead, Counsel proposed to file a Notice of Prehearing Conference. The ALJ instructed Counsel to dispose of the two (2) Motions in the final order.

Also on March 1, 2018, PUD filed a Notice of Prehearing Conference and scheduled the Prehearing Conference for March 8, 2018.

On March 6, 2018, PUD filed the Direct Testimony of Carolyn Jean Weber.

On March 7, 2018, PUD filed the Direct Testimony of James L. Jones and the Direct Testimony of John Tyler Givens.

On March 8, 2018, PUD filed the Direct Testimony of Kristi D. Prouty.

Also on March 8, 2018, the ALJ held a Prehearing Conference, and an OUSF Prehearing Conference Agreement was filed.

On March 23, 2018, the AG filed the Attorney General's Statement of Position.

On March 27, 2018, PUD and the AG filed their respective Exhibit Lists.

Also on March 27, 2018, PUD filed the Testimony Summaries of Kristi D. Prouty, Carolyn Jean Weber, John Tyler Givens and James L. Jones.

The Hearing on the Merits was held before the ALJ on March 29, 2018, and all parties were present. At the hearing, the ALJ recommended the OUSF Administrator's recommended factor.

## **II. SUMMARY OF EVIDENCE**

### **Kristi D. Prouty, OUSF Payments Manager**

Kristi D. Prouty is employed by PUD as the OUSF Payment Manager. In this Cause, Ms. Prouty presented a description of multiple improvements that have been made to OUSF processes. Ms. Prouty also confirmed factor amounts for contract expenses.

On March 8, 2018, Ms. Prouty filed Direct Testimony describing new OUSF review processes and explaining the amounts to be included in the OUSF assessment factor for contract expenses.

Ms. Prouty testified that under the current OUSF Administrative Team, improvements have been made to the following categories to expand internal controls and minimize risk to ratepayers:

- OUSF Disbursement Process
- OUSF Change Request Process
- OUSF Internet Pricing Trend
- OUSF Banking Process
- OUSF Monthly Payment Team Audits
- OUSF Assessable Revenue Audits
- OUSF Website Reporting

Additionally, Ms. Prouty testified to confirm factor amounts for the following contract expenses:

- OUSF Fund Manager
- OUSF Accounting contract

Ms. Prouty testified about the Request for Proposal and committee processes for choosing the Fund Manager and accounting contracts, the Fund Manager responsibilities, as well as how outsourcing the accounting contract benefits ratepayers.

Finally, Ms. Prouty orally testified regarding the recent action taken by the Universal Service Administrative Company to prorate federal funding related to the Rural Health Care Program, which will place additional pressure on OUSF funding and further supports the need for an interim order in this Cause.

### **Carolyn Jean Weber, Public Utility Regulatory Analyst**

Carolyn Jean Weber is employed by PUD as a Public Utility Regulatory Analyst. In this Cause, Ms. Weber presented PUD's processes regarding the monthly review of the OUSF financial information provided by the Fund Manager, GVNW Consulting, Inc. ("GVNW"), and the financial information posted to the Commission website.

On March 6, 2018, Ms. Weber filed Direct Testimony describing the processes used to review the financial activity of the OUSF, ensure reporting accuracy, and promote transparency through posting to the Commission website.

Ms. Weber testified that each month GVNW provides copies of the OUSF financial statements and supporting documentation, along with a report of the disbursements by month for the current fund year ("Monthly Disbursements"). Ms. Weber, a CPA, further testified that these documents undergo a review process to ensure that the information is correct in both amount and

classification, and that the information is then used to update a set of summary reports (“Monthly Funding Reports”) for the Commission website. Finally, Ms. Weber testified that the OUSF Payment Manager, also a CPA, performs a secondary review before the Monthly Funding Reports and Monthly Disbursements are posted to the Commission website at <http://www.occeweb.com/pu/OUSF/OUSF.htm>.

### **John T. Givens, Public Utility Regulatory Analyst**

John T. Givens is employed by PUD as a Public Utility Regulatory Analyst. In this Cause, Mr. Givens presented a general overview of the OUSF Funding Database (“Database”), in order to provide context for the administrative costs of developing and maintaining the Database, which are recovered from the OUSF.

On March 7, 2018, Mr. Givens filed Direct Testimony describing the Database, its creation and development history, and its effects on the administration of the OUSF.

Mr. Givens testified that the Database contains a record of all disbursements made to eligible providers for Special Universal Service, Primary Universal Service, and Lifeline. Mr. Givens further testified that the Database has been actively developed and maintained since its creation in 2014. Finally, Mr. Givens testified that the Database contains a wide variety of data for each disbursement record, and that this data allows for more detailed reviews by OUSF analysts and the OUSF Monthly Payment Team, in addition to being used by numerous other stakeholders.

### **James L. Jones, OUSF Manager**

James L. Jones is employed by PUD as the OUSF Manager. On March 7, 2018, Mr. Jones filed Direct Testimony outlining the process which was employed to arrive at the recommended OUSF assessment factor for the fiscal year beginning July 1, 2018, which consists of the period from July 1, 2018, through June 30, 2019, also known as Funding Year 2018 (“FY 2018”).

Mr. Jones testified that the OUSF Administrator filed this Cause on January 12, 2018, seeking to establish an updated annual OUSF assessment factor. Mr. Jones also testified that on January 16, 2018, the Administrator issued data requests to each eligible provider of Special Universal Services and local exchange telecommunication service providers (“Eligible Providers”), who receive OUSF or OLF support and to all Contributors to the OUSF.

Based upon responses to these data requests and historical documentation, the Administrator calculated an updated assessment factor. The categories included in the calculation were as follows:

- Attorney General - \$250,000
- Oklahoma Lifeline - \$3,000
- Primary OUSF - \$5,460,000
- Special OUSF - Schools, Libraries, and Telemedicine - \$18,915,000
- Management Contract Fees - Fund Manager - \$225,000

- Internal Administrative, Oversight, and Accounting Expenses - \$1,500,000
- External Audits of Fund Manager and Administrator - \$100,000
- Accounting & Expert Witness Contracts - \$275,000
- Bank Fees - \$4,000

Mr. Jones testified that these estimated funding obligations resulted in a projected funding requirement for FY 2018 of \$26,732,000, which, after subtracting the estimated prior year funding balance and FY 2018 interest income that can be used to fund those requirements, was then divided by the total projected intrastate assessable revenues for FY 2018, \$937,000,000, as outlined in 17 O.S. § 139.107 to calculate the proposed FY 2018 OUSF assessment factor of 1.20 percent.

Mr. Jones also testified that an “interim order” in this Cause is being requested due to the uncertainty related to various matters surrounding Primary Universal Service funding. Mr. Jones estimated that if these issues involving Primary Universal Service were included in the development of the assessment factor they could increase required funding for FY 2018 by more than \$20,000,000 and the assessment factor would increase to 3.41%.

### **Attorney General**

On March 23, 2018, the Oklahoma Attorney General filed the Attorney General’s Statement of Position. The Attorney General stated support for the Administrator’s decision to withhold potential primary universal service impacts from his funding projections and to seek an interim order. Based on the evidence in the record, the Attorney General did not object to the Administrator’s recommendation that the Commission adopt an OUSF Assessment Factor of 1.20%.

### **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

THE COMMISSION FINDS that it 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 FURTHER FINDS that notice was proper and given as required by law and the rules of the Commission.

THE COMMISSION FURTHER FINDS that 17 O.S. § 139.107 states in part,

A. The Oklahoma Lifeline Fund (OLF) and the Oklahoma Universal Service Fund (OUSF) shall be funded in a competitively neutral manner not inconsistent with federal law by all contributing providers. The funding from each contributing provider shall be based on the total intrastate retail Oklahoma Voice over Internet Protocol (VoIP) revenues and intrastate telecommunications revenues, from both regulated and unregulated services, of the contributing provider, hereinafter referred to as assessed revenues, as a percentage of all assessed revenues of the contributing providers, or such other assessment methodology not inconsistent with federal law. VoIP services shall be assessed only as provided for in the

decision of the Federal Communications Commission, FCC 10-185, released November 5, 2010, or such other assessment methodology that is not inconsistent with federal law. The Commission may after notice and hearing modify the contribution methodology for the OUSF and OLF, provided the new methodology is not inconsistent with federal law.

B. The Corporation Commission shall establish the OLF assessment and the OUSF assessment at a level sufficient to recover costs of administration and payments for OUSF and OLF requests for funding as provided for in the Oklahoma Telecommunications Act of 1997. The administration of the OLF and OUSF shall be provided by the Public Utility Division of the Commission. The administrative function shall be headed by the Administrator as defined in Section 139.102 of this title. The Administrator shall be an independent evaluator. The Administrator may enter into contracts to assist with the administration of the OLF and OUSF.

THE COMMISSION FURTHER FINDS that the information relied upon by PUD in recommending the contribution factor is the best information available for making that evaluation.

THE COMMISSION FURTHER FINDS that the contribution factor for FY 2018 should be 1.20% based upon the responses to data requests, statutory requirements, historical information, recent Commission orders, and all other costs included in the calculation.

THE COMMISSION FURTHER FINDS the contribution factor of 1.20% to be fair and reasonable for FY 2018, which begins July 1, 2018, and ends June 30, 2019, and that said factor should be adopted by the Commission on an interim basis.

THE COMMISSION FURTHER FINDS that by issuing an Interim Order, the Commission may modify the OUSF factor, as needed, after notice to parties to this Cause and hearing of new evidence or circumstances that warrant the modification, without initiating a new cause.

THE COMMISSION FURTHER FINDS that PUD's Motion to Establish Procedural Schedule and the Motion to Reopen the Record on the Motion to Establish Procedural Schedule were withdrawn on March 1, 2018.

#### IV. ORDER

THE COMMISSION THEREFORE ORDERS that the Findings of Fact and Conclusions of Law set forth herein are hereby adopted as the Order of the Commission.

THE COMMISSION FURTHER ORDERS that the OUSF contribution factor for FY 2018 shall be 1.20%, effective July 1, 2018, until further Order of the Commission.

THIS ORDER SHALL BE EFFECTIVE immediately.

OKLAHOMA CORPORATION COMMISSION

*Dana L. Murphy*

DANA L. MURPHY, Chairman

*J. Todd Hiatt*

J. TODD HIETT, Vice Chairman

*Bob Anthony*

BOB ANTHONY, Commissioner

**CERTIFICATION**

DONE AND PERFORMED by the Commissioners participating in the making of this Order, as shown by their signatures above, this 25 day of April, 2018.

[SEAL]

*Peggy Mitchell*

PEGGY MITCHELL, Secretary

**REPORT OF THE ADMINISTRATIVE LAW JUDGE**

The foregoing findings, conclusions, and order are the report and recommendation of the undersigned Administrative Law Judge.

*Dustin Murer*

DUSTIN R. MURER  
Administrative Law Judge

4-12-18

DATE