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November 12, 2004

## Report of the Task Force on Deregulation of the Oklahoma Telecommunications Service Provider Industry

The Task Force on Deregulation of the Oklahoma Telecommunications Service Provider Industry, created pursuant to Senate Concurrent Resolution 74 (2004), met for the first time at the State Capitol on October 14, 2004, at which time Representative David Braddock proposed a series of findings and recommendations relating to the fulfillment of the directives in SCR 74.

At a second meeting at the State Capitol on October 21, 2004, again held pursuant to the Open Meetings Act, those members of the Task Force present, after discussion, voted 14-0 to amend the findings and recommendations in Representative Braddock's proposed report and to adopt the amended version as the Report of the Task Force.

In addition to those members of the Task Force present, both meetings were attended by numerous other interested parties.

The findings and recommendations adopted by the Task Force, therefore, are as follow:

### *FINDINGS*

1. The Task Force on the Deregulation of the Oklahoma Telecommunications Service Provider Industry was created by Senate Concurrent Resolution 74, adopted by both the Oklahoma Senate and Oklahoma House of Representatives in May 2004.
2. The Task Force was charged with advising the Oklahoma Legislature in an effort to determine "the necessity and feasibility of abolishing certain statutory provisions, relating to the telecommunications service provider industry in the State of Oklahoma." Said advice was to cover a variety of components of suggested proposals relating to telecommunications service providers.
3. The Oklahoma Constitution and state statutes have charged the Oklahoma Corporation Commission with the authority and responsibility of regulating the telecommunications industry.
4. Technological changes in the telecommunications industry are driving a great number of challenges and opportunities for telecommunications service providers and their customers, and regulation of the industry should encourage, not impede, the deployment of new services and the infrastructure necessary to deliver those services.

5. These critical telecommunications issues may be appropriately examined by the Oklahoma Corporation Commission in proceedings that allow the public and providers to participate and be heard by an agency charged with making decisions relating to telecommunications service provider regulation and deregulation.

6. The Oklahoma Legislature has the authority – through its lawmaking and budget setting authority – to oversee the Oklahoma Corporation Commission’s regulation of telecommunications service providers.

#### *RECOMMENDATIONS*

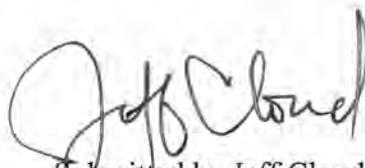
1. The Task Force on the Deregulation of the Oklahoma Telecommunications Service Provider Industry recommends that the Oklahoma Corporation Commission, pursuant to its constitutional and statutory regulatory authority, continue to conduct proceedings to determine the appropriate regulation of telecommunications service providers. The Oklahoma Corporation Commission should take such actions it deems to be in the best interests of the public.

2. The Oklahoma Legislature, with its Constitutional authority to make, amend and repeal law, should continue its oversight of regulatory issues relating to telecommunications services and consider such legislative proposals it determines to be appropriate during its regular legislative session.

3. The Oklahoma Corporation Commission should, upon completion of the proceedings and actions taken pursuant to Recommendation 1 hereof, make a report to the members of the Task Force at a meeting to be called by the Chair or by such other means as the Chair determines to be appropriate consistent with the provisions of Senate Concurrent Resolution 74.

4. The Task Force on the Deregulation of the Oklahoma Telecommunications Service Provider Industry does submit these findings and recommendations pursuant to the provisions of Senate Concurrent Resolution 74.

The Task Force on the Deregulation of the Oklahoma Telecommunications Service Provider Industry, upon adoption of these findings and recommendations, did adjourn, subject to the call of the Chair.



Submitted by Jeff Cloud  
Corporation Commissioner and  
Chairman of the Task Force on the Deregulation  
of the Oklahoma Telecommunications Service  
Provider Industry

**Task Force on Deregulation of the Oklahoma Telecommunications Service Provider Industry, pursuant to SCR 74**  
**Minutes of Second Task Force Meeting: October 21, 2004; 1:30 p.m.**  
**Room 419-C, State Capitol, Oklahoma City, Oklahoma 73105**

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**NOTICE AND AGENDA** for the Second meeting of the Task Force on Deregulation of the Oklahoma Telecommunications Service Provider Industry were properly given and posted at the State Capitol in compliance with the Oklahoma Open Meeting Act.

A quorum was present (14 of the 16 members of the Task Force being present and a quorum consisting of at least nine) and Task Force Chairman Jeff Cloud called the meeting to order at 1:35 p.m.

**Roll call** showed those Task Force members present were: Ed Apple, Dave Bialis, Rep. David Braddock, Sonny Bright, Don Cain, Attorney General Drew Edmondson, Martha Findley, Sen. Jay Paul Gumm, John P. Harris, Rep. Bill Nations, Thomas F. Riley Jr., Gloria Trotter, Amy Yarkoni, and Corporation Commissioner Jeff Cloud, Task Force Chair. Also in attendance were more than 25 other interested observers. Absent were two Task Force members: state Treasurer Robert Butkin and Sen. Richard Lerblance.

**AGENDA:**

1. Call meeting to order
2. Discussion of issues raised in Task Force meeting of October 14, 2004
3. Discussion of proposed Task Force report involving Corporation Commission investigation of study items listed in Senate Concurrent Resolution 74, passed in May 2004
4. Possible action and votes to amend and adopt findings and recommendations of proposed Task Force report and to submit that document as the final report of the Task Force
5. Other business
6. Discussion of and possible vote on any need for scheduling future meetings
7. Motion and vote to adjourn

After roll call, the Chair called for discussion as per meeting agenda.

Rep. Braddock called on the Task Force to consider adopting as its report, pursuant to Senate Concurrent Resolution 74, an amended version of a two-page document with proposed findings and recommendations. Rep. Braddock had introduced the original unamended version of that report at the first Task Force meeting on Oct. 14, 2004. Because the notice and agenda for the first Task Force meeting did not give any notice of a possible vote, as would be required under the Open Meetings Act, and because at least one Task Force member at that meeting indicated a desire for more time to review the proposal, consideration of Rep. Braddock's draft report was put off from Oct. 14 to the next Task Force meeting on Oct. 21. That original version's findings and recommendations read as follows:

#### *FINDINGS*

1. The Task Force on the Deregulation of the Oklahoma Telecommunications Service Provider Industry was created by Senate Concurrent Resolution 74, adopted by both the Oklahoma Senate and Oklahoma House of Representatives in May 2004.
2. The Task Force was charged with advising the Oklahoma Legislature in an effort to determine "the necessity and feasibility of abolishing certain statutory provisions, relating to the telecommunications service provider industry in the State of Oklahoma." Said advice was to cover a variety of components of suggested proposals relating to telecommunications service providers.
3. The Oklahoma Constitution and state statutes have charged the Oklahoma Corporation Commission with the authority and responsibility of regulating the telecommunications industry.
4. Technological changes in the telecommunications industry are driving a great number of challenges and opportunities for telecommunications service providers and their customers, and regulation of the industry should encourage, not impede, the deployment of new services and the infrastructure necessary to deliver those services.
5. These critical telecommunications issues may be appropriately examined by the Oklahoma Corporation Commission in proceedings that allow the public and providers to participate and be heard by an agency charged with making decisions relating to telecommunications service provider regulation and deregulation.
6. The Oklahoma Legislature has the authority – through its lawmaking and budget setting authority – to oversee the Oklahoma Corporation Commission's regulation of telecommunications service providers.
7. Senate Concurrent Resolution 74 requires the Task Force to present its recommendations by November 30, 2004, a period of only 47 days from the date of the first meeting of the Task Force. A full and fair hearing of all the issues relating to telecommunications service provider deregulation would be difficult in such a short period of time under the best of conditions. With elections only 19 days hence, and initial organizational efforts for the 2005 legislative session to follow shortly thereafter, the ability of the Task Force to complete its mission within the time allotted is made even more difficult.

### *RECOMMENDATIONS*

1. The Task Force on the Deregulation of the Oklahoma Telecommunications Service Provider Industry recommends that the Oklahoma Corporation Commission, pursuant to its constitutional and statutory regulatory authority, continue to investigate during the interim prior to commencement of the next legislative session, the appropriate regulation of telecommunications service providers. The Oklahoma Corporation Commission should take such actions it deems to be in the best interests of the public.

2. The Oklahoma Legislature, with its Constitutional authority to make, amend and repeal law, should continue its oversight of regulatory issues relating to telecommunications services and consider such legislative proposals it determines to be appropriate during its regular legislative session.

3. The Task Force on the Deregulation of the Oklahoma Telecommunications Service Provider Industry does submit these findings and recommendations pursuant to the provisions of Senate Concurrent Resolution 74.

FURTHER, I move the Task Force on the Deregulation of the Oklahoma Telecommunications Service Provider Industry, upon adoption of the findings and recommendations contained here in, do adjourn sine die.

As amendments to the original draft, Rep. Braddock proposed deleting Finding 7 in its entirety. "That was really just a discussion about the time constraints, and we really didn't necessarily need that in there," he said. Also, Rep. Braddock noted that a motion had been made by Mr. Riley at the Oct. 14, 2004, first Task Force meeting, to delete from Recommendation 1 the phrase "during the interim prior to commencement of the next legislative session ..." Deleting that phrase would remove the apparent time constraint on the Corporation Commission to complete its investigation of issues related to SCR 74. "I thought that (deletion) made good sense," said Rep. Braddock, adding that he accepted that recommendation and incorporated it into his latest draft, which was distributed at this Oct. 21 meeting.

Mr. Apple asked for discussion of any points of disagreement or agreement related to Rep. Braddock's proposal and issues related to SCR 74.

Mr. Cain said his employer, SBC, was a proponent of a bill (Senate Bill 1119) which was introduced in the 2004 legislative session and which led to SCR 74. "We think there's enough competition in the (telecommunications) marketplace today that every operator and every technology should ... be free to operate in the marketplace under the same limited set of rules. Today, all the wire-line companies face tremendous competition from wireless carriers, cable carriers, satellite carriers, and there are all the different and various sets of regulations," Mr. Cain said. He noted that Federal

Communications Commission Chairman Michael Powell has indicated that in November, an emerging telecommunications technology known as Voice Over Internet Protocol will be declared an interstate service. "It won't be regulated by the Oklahoma Corporation Commission," Mr. Cain said. He said that the freedom of competitors in long distance, high speed Internet access and cellular services to raise and lower prices for their services based on the competitive market has benefited consumers, and the same approach should be taken with respect to those competitive telecommunications services regulated by the Corporation Commission, with appropriate protections for Universal Service.

Mr. Bialis said that at his employer, Cox Communications, "We think there needs to be a little more systematic way of determining if there is competition. What is the true level of competition is a question mark in our mind. It needs to be evaluated." He said he believes the Corporation Commission's existing telecommunications rules are good and he urged against deregulating telecommunication service pricing before the transition to a competitive market is complete. "We've never said we want different rules. We think it should be the same for all providers ... but I think we need some oversight during this transition," he said.

Mr. Apple said he would hope that if the Corporation Commission proceeds to study the issues originally assigned to the Task Force that the Commission would provide notice of such proceedings and related information to SCR 74 Task Force members. Mr. Cloud said, "I believe we can do that."

Ms. Findley asked the Task Force to "remember competition isn't everywhere. We need to remember rural Oklahoma ..."

Mr. Braddock made a motion to adopt the findings and recommendations in his proposed letter report as presented, without the original Finding 7 and with deletion of the time-limiting language in Recommendation 1 as proposed previously by Mr. Riley.

Mr. Bialis proposed amending Rep. Braddock's proposed Recommendation 1 so it would not call for the Corporation Commission just to "continue to investigate" appropriate regulation of Oklahoma telecommunications providers but rather would call for the Commission to "conduct proceedings to determine" the appropriate regulation.

Mr. Riley suggested modification also of the last sentence of Rep. Braddock's proposed report, following the Recommendations section, to state that the Task Force would adjourn after the Corporation Commission completes its investigation or proceedings and the Task Force determines that its directives under SCR 74 were fulfilled through the commission investigation and actions. It was also suggested that some mention of the Corporation Commission reporting its own determinations and actions back to the Task Force might be incorporated into Rep. Braddock's proposed Finding 6.

Mr. Cloud noted that SCR 74 calls for the Task Force to submit its Final Report by not later than November 30, 2004, and that SCR 74 only authorized the Task Force to remain in existence until January 31, 2005. Mr. Riley said, "Notwithstanding the fact that we've got a deadline, we've also been given a responsibility, and I think it's incumbent upon us to fulfill our responsibility."

Mr. Cloud said, "So the question is back to Representative Braddock, whether he will entertain Mr. Bialis's motion." Rep. Braddock responded by restating Mr. Bialis's proposed amendment to replace the existing words in Recommendation 1 which read "continue to investigate ..." with the new language "continue to conduct proceedings to determine ..." Rep. Braddock said, "I don't have any problem with that."

Rep. Braddock said, "The only other thing I would recommend is instead of putting something into (Finding) Number Six about (the Corporation Commission) passing on (its) recommendations to the Task Force members, maybe we could make that recommendation a new (Recommendation) three or new four or whatever. I think ... instead of having it under the findings; it would probably be better under the recommendations. ... Actually, it would probably have to be a new (Recommendation) three. And (then) move (existing Recommendation) three to (become Recommendation) four." A suggestion was made to amend the last sentence of Rep. Braddock's proposed report, to delete the words, "do adjourn sine die," and replace them with the new language, "until the Corporation Commission concludes its proceedings." But Rep. Braddock noted, "I think technically according to the language in the Senate Concurrent Resolution, this Task Force goes away on January 31st, so I don't know how we could really do that. I think we could definitely say in here that the commission is to pass along its

findings, etc., at some point in the future, whenever the commission gets through studying the issues. . . . However, I assume the same people that are involved here would be in all those discussions and meetings that you will have at the Corporation Commission. I assume there's going to be a tremendous amount of input from all parties."

Sen. Gumm proposed amending the Bialis motion to add a new Recommendation 3 and renumbering the subsequent Recommendation(s), so that the new Recommendation 3 would read as follows: "The Oklahoma Corporation Commission shall, upon completion of the proceedings and actions taken pursuant to Recommendation 1 hereof, make a report to the members of the Task Force at a meeting to be called by the Chair or by such other means as the Chair determines to be appropriate consistent with the provisions of Senate Concurrent Resolution 74." Sen. Gumm said it also would be appropriate for the closing sentence of the proposed report to say that the Task Force would "adjourn, subject to the call of the Chair." He noted further that if the Corporation Commission's determinations and findings from its own investigation of the issues outlined in SCR 74 are not available until after January 31, 2005, when the Task Force sunsets, the Task Force Chairman would still be able to distribute those findings and determinations to those people who were members of the Task Force.

Mr. Cloud asked if a vote, therefore, was needed on the Bialis motion. Rep. Braddock said, "We had a motion, and I accepted it." The call for a vote on the Bialis motion was entered and properly seconded. Attorney General Edmondson noted that under the Open Meetings Act, the vote should be a recorded roll call vote, which was taken as follows with aye votes in favor of the Bialis motion being entered by Apple, Bialis, Braddock, Bright, Cain, Edmondson, Findley, Gumm, Harris, Nations, Riley, Trotter, Yarkoni and Cloud; and no nay votes were received. The Bialis motion passed 14-0.

Sen. Gumm then restated his own proposed amendment and moved that its language be inserted as a new Recommendation 3 to read as follows: "The Oklahoma Corporation Commission shall, upon completion of the proceedings and actions taken pursuant to Recommendation 1 hereof, make a report to the members of the Task Force at a meeting to be called by the chair or by such other means as the chair determines to be appropriate consistent with the provisions of Senate Concurrent Resolution 74." He said the Chair could call such a meeting until January 31, 2005. Sen. Gumm said

that with his proposed new Recommendation 3, then the previous Recommendation 3 should be re-numbered as Recommendation 4. Rep. Braddock said he would accept such Sen. Gumm's proposed amendments.

Ms. Trotter requested clarification. Rep. Braddock said, "Essentially under the guidelines set out in the SCR and given the time frame, we would expect the Corporation Commission to continue to investigate or continue to conduct proceedings to determine what's appropriate, what type of regulation for telecommunications service providers is appropriate." He said Task Force members would be able provide input into such investigation and proceedings at the Corporation Commission, which would be able to keep Task Force members and other interested parties advised of such proceedings and investigation and the results of such activities. Mr. Apple said Task Force members can offer input at any hearings or proceedings conducted at the Corporation Commission. "You're not losing your forum. As a member of this committee, you have a great deal of personal authority to present your opinion at any time ... and don't ever relinquish that," Mr. Apple said.

Attorney General Edmondson said noted that Sen. Gumm's proposed language would be mandatory in stating, "The Oklahoma Corporation Commission *shall* ..." do certain things. Mr. Edmondson said, "I don't believe the Task Force has the authority to direct the Corporation Commission to do anything." Sen. Gumm said he would amend his own proposal to replace the word "shall" with "should."

Mr. Cloud restated Sen. Gumm's proposed language in full to read, "The Oklahoma Corporation Commission should, upon completion of the proceedings and actions taken pursuant to Recommendation 1 hereof, make a report to the members of the Task Force at a meeting to be called by the chair or by such other means as the chair determines to be appropriate consistent with the provisions of Senate Concurrent Resolution 74."

The Gumm amendment, being properly offered and seconded, a roll call vote was taken as follows with aye votes in favor of the Gumm amendment being entered by: Apple, Bialis, Braddock, Bright, Cain, Edmondson, Findley, Gumm, Harris, Nations, Riley, Trotter, Yarkoni and Cloud; and no nay votes were received. The Gumm motion to amend the proposed Braddock report passed 14-0.

Rep. Braddock then made a motion for a vote on the Task Force accepting and adopting his proposed report with findings and recommendations, as amended, as a report of the Task Force, and that the body then adjourn. Mr. Cloud reviewed the amendments – the Bialis amendment to Recommendation 1 and the Gumm amendment to insert a new Recommendation 3 and renumber the previous Recommendation 3 as Recommendation 4. Braddock’s motion for adoption of his report, as presented at this meeting, including those new amendments, being properly offered and seconded, a roll call vote was taken as follows with aye votes in favor of the Mr. Braddock’s motion entered by: Apple, Bialis, Braddock, Bright, Cain, Edmondson, Findley, Gumm, Harris, Nations, Riley, Trotter, Yarkoni and Cloud; and no nay votes were received. The Braddock motion to adopt the proposed report passed 14-0, with findings and recommendations as follows:

#### *FINDINGS*

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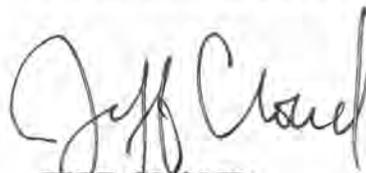
FURTHER, I move the Task Force on the Deregulation of the Oklahoma Telecommunications Service Provider Industry, upon adoption of the findings and recommendations contained herein, do adjourn, subject to the call of the Chair.

Responding to a question about the timing of proceedings at the Corporation Commission to investigate the issues outlined in SCR 74, Mr. Cloud said, "I think some of them are already underway, and I would say the possibility of other action taken at the start of next year." Copies of findings and recommendations related to those proceedings and investigations will be distributed, he said.

There being no other business on the agenda at 2:20 p.m. to address, Rep. Braddock moved that the Task Force adjourn. Mr. Cloud thanked the Task Force members and other attendees and advised that the study of the issues identified in SCR 74 will be undertaken at the Corporation Commission and that the Task Force members will be kept informed. The Task Force voted unanimously to adjourn.

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MINUTES APPROVED:



JEFF CLOUD

Corporation Commissioner, and  
Chairman, Task Force on Deregulation  
of the Oklahoma Telecommunications  
Service Provider Industry

