

**TITLE 165. CORPORATION COMMISSION**

**CHAPTER 50. FUEL, PURCHASED GAS, AND PURCHASED  
POWER ADJUSTMENT CLAUSES**

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**CHAPTER 50. FUEL, PURCHASED GAS, AND PURCHASED  
POWER ADJUSTMENT CLAUSES**

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[**Authority:** 17 O.S. §§ 151 *et seq.*, and §§ 250-264]

[**Source:** Codified 12-31-91]

**SUBCHAPTER 1. GENERAL PROVISIONS**

## Section

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**165:50-1-1. Purpose**

The General Rules Relating to Fuel, Purchased Gas, and Purchased Power Adjustment Clauses of this Chapter were promulgated in furtherance of 17 O.S. 1971, Section 152, and more specifically, 17 O.S. 1977 Supp., Section 250-64, which provided for the approval, regulation, and effectiveness of "fuel adjustment clauses," which are defined as including fuel, purchased power, and purchased gas adjustment clauses and requires certain filings, authorizes certain hearings, requires certain disclosures, and provides for certain investigations. Pursuant to such statutory authorization and requirements, the Oklahoma Corporation Commission adopted the rules of this Chapter through Cause No. 26134, Order No. 135207, effective November 1, 1977.

**165:50-1-2. Definitions**

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Act**" means 17 O.S. 1977 Supp. §§ 250-64 and as it may hereafter be amended.

"**Affiliate**," "**affiliated person**," "**corporation**," "**firm**," or "**subsidiary**" means any person, subsidiary, firm, or corporation which is controlled by an entity that also controls the utility, or the utility or an entity controlling the utility has directly or indirectly the power to control.

"**Commission**" shall mean or refer to the Oklahoma Corporation Commission.

"**Electric distribution cooperative**" means a cooperative corporation organized and doing business under the Rural Electric Cooperative Act, 18 O.S. 1971, § § 437-437.30, engaged in the retail distribution of electric energy.

"**Electric generation cooperative**" means a cooperative corporation organized and doing business under the Rural Electric Cooperative Act, 18 O.S. 1971, § § 437-437.30 engaged in the generation and distribution for resale of electric energy.

"**Emergency sales of gas**" means sales of natural gas made by a public utility or subsidiary thereof to one or more interstate pipelines or other out-of-state customer pursuant to federal law which exempts such transactions from the jurisdiction of the Federal Power Commission.

"**Fair field price**" means the value attributed to gas produced from wells owned by a public utility, or a subsidiary, or affiliate of a public utility, which shall be the going price paid by the utility, subsidiary, or affiliate to others in the field where such production is located. If the utility, subsidiary, or affiliate is not purchasing gas in such field, then such value shall be the price paid by the utility, subsidiary, or affiliate in the nearest field where conditions are similar. The value to be attributed to residue gas owned by a public utility, or a subsidiary, or affiliate of a public utility, from gas processing plants shall be the going price paid by the utility, subsidiary, or affiliate to others from the same plant. If the utility, subsidiary, or affiliate is not purchasing gas from said plant, then the value shall be the price paid by the utility, subsidiary, or affiliate at the nearest plant

where conditions are similar. However, the Commission may require an adjustment of the fair field price when it deems it proper to do so based on information before it.

**"Fuel adjustment clause"** means any mechanism which allows a public utility or electric generating cooperative to automatically adjust its charges above or below the base amount included in its rates, based upon changes in costs of fuel for generation of electricity, purchased power, or purchased gas, and shall include purchased gas adjustment clauses.

**"Heat rate"** means a measure of the efficiency of an electric generating station, computed by dividing the total British thermal unit content of the fuel burned by the resulting net kilowatt-hours generated.

**"Line loss"** means the kilowatt-hours of electricity lost in the operation of an electric transmission or distribution system.

**"Public utility"** or **"utility"** means any individual, firm, association, partnership, corporation, or any combination thereof, other than a municipal corporation or their lessees, trustees and receivers, owning or operating for compensation in this state equipment or facilities for producing, generating, transmitting, distributing, selling, or furnishing electricity, or transmitting, directly or indirectly, or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public or for wholesale, unless its wholesale rates are regulated by a federal agency.

**"PUD"** means the Public Utility Division of the Oklahoma Corporation Commission.

**"Purchased gas adjustment clause"** means fuel adjustment clause which allows a public utility to automatically adjust its charges above or below the base amount included in its rates, based upon changes in the cost of purchased gas.

**"Purchased power adjustment clause"** means any mechanism which allows an electric public utility or electric distribution cooperative to adjust its charges above or below the base amount included in its rates based upon changes in costs of wholesale power purchased from others.

**"Thousand cubic feet"** or **"Mcf"** means that quantity of gas occupying one thousand cubic feet of space at 60 degrees Fahrenheit (60° F) and an absolute pressure as stated in the utility's tariffs.

[Source: Amended at 36 Ok Reg 704, eff 7-25-19]

### **SUBCHAPTER 3. CONTENTS AND STANDARD PROVISIONS OF ADJUSTMENT CLAUSES**

#### Section

- 165:50-3-1. Contents of adjustment clauses
- 165:50-3-2. Standard fuel and purchased gas adjustment clause provisions
- 165:50-3-3. Standard purchased power adjustment clause provisions; electric cooperatives

#### **165:50-3-1. Contents of adjustment clauses**

This Chapter shall apply in the design of all fuel, purchased gas, and purchased power adjustment clauses:

- (1) For the purpose of determining fuel or gas costs, the price paid for the fuel or gas shall be computed at the actual cost of fuel or gas purchased from nonaffiliated persons, firms, and corporations; and the actual cost of the production of fuel owned by the public utility or

received from affiliated persons, firms or corporations, and in the case of gas, the fair field price for gas owned by the public utility or received from affiliated persons, firms, or corporations.

(2) The cost of fuel or gas shall be the price paid at the point of delivery into the utility system. In the event the transportation is performed by an affiliated person, firm, or corporation as defined in 165:50-1-2, which is not subject to the regulatory jurisdiction of the Commission, a regulatory agency of another state having jurisdiction, or the Federal Energy Regulatory Commission or successor agency, the charges made for transportation shall be, if allowed at all, only such as the Commission finds fair, just, and reasonable, for purposes of this Chapter. Transportation charges approved by this Commission, a regulatory agency of another state having jurisdiction, or by the Federal Energy Regulatory Commission, or successor agency shall be included for purposes of this Chapter, if allowed by the Commission. In instances where the affiliate's approved transportation charges are adjustable, the Commission may evaluate the reasonableness of the rate paid in terms of the maximum and minimum allowed by the adjustable charges, taking into account all of the terms and conditions of, and the circumstances surrounding, the transportation service being provided. The proposed adjustment charge shall not include the cost of transportation beyond its point of delivery into that portion of the utility system regulated by the Commission unless there is presented to the Commission and the Commission is persuaded by reliable evidence which clearly points to the conclusion that failure to do so will substantially threaten the ability of the utility to earn a reasonable rate of return.

(3) The amount of electric energy produced by hydro-electric generating plants and purchased by the public utility proposing the adjustment charge shall be deducted from the amount of electric energy to which any fuel cost applies.

(4) The actual efficiency or heat rate of electric public utilities shall be utilized and line losses shall be considered only if reliable evidence clearly points to the conclusion that failure to do so will substantially threaten the ability of the utility to earn a reasonable rate of return.

(5) Fuel removed from stockpiles or gas removed from storage shall be taken into consideration on the basis of the last-in first-out method of inventory accounting.

(6) No estimated fuel adjustment shall be allowed.

(7) Each public utility authorized by the Commission to recover the cost of fuel, purchased gas, or purchased power shall adhere to the standard fuel, purchased gas, or purchased power adjustment provisions of this Chapter unless the Commission determines after an appropriate evidentiary hearing that the public interest is better served by permitting the utility to file a special tariff for the recovery of costs addressed in this Chapter.

[Source: Amended at 12 Ok Reg 2139, eff 7-1-95]

### **165:50-3-2. Standard fuel and purchased gas adjustment clause provisions**

(a) Standard fuel and purchased gas adjustment provisions set forth in (1) and (2) of this subsection are hereby adopted for use, insofar as feasible, by the public utilities subject to the jurisdiction of the Commission.

(1) **Electric.** The method for use in compensating for charges in cost of fuel is as follows:

(A) Each utility generating electricity and having an approved cost of fuel adjustment clause in its tariff, subject to the Commission's jurisdiction, shall compensate for any variations in the average cost of fuel burned at the utility's thermal generating plant(s) above or below the cost of fuel used in each tariff on which the rate was based, by adjusting the charges, either upward or downward per kWh, billed under its tariffs, approved agreements and special contracts by employing a method approved by the Commission in a public hearing process.

(B) The monthly average actual heat content of each fuel burned and thermal efficiency of each generating plant shall be reported in British Thermal Units (BTU) on a monthly basis to PUD. The actual fuel burned and generation for each generating plant shall be reported by fuel type in BTU content, tons, or gallons, as appropriate.

(C) Line losses shall be considered only if reliable evidence clearly points to the conclusion that failure to do so will substantially threaten the ability of the utility to earn a reasonable rate of return. If line losses are allowed by the Commission, the utility will submit a copy of the most recent applicable line loss study. Line losses will be evaluated for reasonableness on a case-by-case basis.

(2) **Gas.**

(A) **Pressure base.** For the purposes of calculations made in this paragraph, all volumes of gas will be adjusted to a pressure base of the pounds per square inch absolute on which the utility's rates are established and in accordance with gas measurement procedures standard in the industry. All reports to the Commission will be at 14.73 p.s.i.a. pressure base, detailing the conversion multipliers used.

(B) **Determination of Mcf and price paid therefore upon initial receipt of gas.** The total Mcf and the dollar amounts paid therefore shall be calculated for each accounting month on the basis of:

(i) The volumes of gas purchased by the utility or an affiliate from nonaffiliated producers, gatherers, processors, pipelines, and transporters, and the price paid for such gas, and

(ii) The volumes valued at the fair field price represented by gas received from wells owned by the utility or an affiliate and residue gas owned by the utility or an affiliate from gas processing plants, which gas is delivered into the utility's pipeline system, into the pipeline system of an affiliate of the utility, or directly to the utility's customers.

(C) **Adjustments to calculations.** Adjustments to the total Mcf and dollar amounts as determined pursuant to (B) of this paragraph shall be made for volumes of gas removed by treating or processing facilities and compression facilities located on the downstream side of any initial volume or value determination point. The total Mcf and associated value removed from the gas stream due to such treating, processing, and compression shall be subtracted from the total Mcf and dollar amounts as determined pursuant to (B) of this paragraph.

(D) **Gas storage injections and withdrawals.** Accurate records shall be kept to determine the total Mcf and associated value of gas injected into or withdrawn from storages. Each utility having gas in underground storage shall report to the Commission on or before the sixtieth (60th) calendar day following the last day of each month the amount and purchased cost of gas in storage as of the last day of the preceding month. This report shall be made on a form as approved by the Commission. Total Mcf and associated

value shall be subtracted from the total amounts determined pursuant to (B) of this paragraph for any gas injected into storage during the accounting month for which the average cost of gas is being determined. Total Mcf and associated value for any gas withdrawn from storage during the accounting month for which the cost of gas is being determined shall be determined using the last-in, first-out method of inventory accounting and shall be added to the total amounts determined pursuant to (B) of this paragraph.

(E) **Other provisions.** Special provisions which are approved by the utility tariffs.

(F) **Determination of the weighted average cost per Mcf.** The weighted average cost per Mcf for each accounting month shall be calculated by totaling the Mcf and dollar amounts as determined pursuant to the preceding subparagraphs and divided the total dollar amount by the total Mcf.

(G) **Application of the average cost of purchased gas.** Whenever the average cost of purchased gas, determined as provided in the preceding subsections, is less than the base cost per Mcf as specified in the utility's approved tariff, the applicable rate per Mcf of gas delivered will be reduced by an amount equal to the amount that the utility's average cost of purchased gas is less than the base cost per Mcf as specified in the utility's approved tariff. When the average cost of purchased gas is more than the base cost per Mcf as specified in the utility's approved tariff, the applicable rate per Mcf of gas delivered will be increased by an amount equal to the amount that the utility's average cost of purchased gas is more than the base cost per Mcf as specified in the utility's approved tariff. The purchased gas adjustment to be applied to any bill will be based on the average cost of purchased gas for the latest gas purchase accounting month for which said cost has been determined.

(H) **Credits.** Any credits, refunds, or allowances on previously purchased gas received by the utility from any supplier shall be deducted from the cost of gas before computations are made each month.

(I) **Average actual heat content.** Where available, monthly average actual heat content of gas delivered to end users shall be provided in BTUs to PUD during its annual fuel audit of the utility. The information shall be supplied by utility-defined regions, if available.

(b) Variations from the standard provisions set forth in this Section must be sought pursuant to applications for permission to use such clauses to be filed pursuant to 165:50-5-1.

[Source: Amended at 12 Ok Reg 2139, eff 7-1-95; Amended at 36 Ok Reg 705, eff 7-25-19]

### **165:50-3-3. Standard purchased power adjustment clause provisions; electric cooperatives**

(a) A Commission-approved purchased power adjustment provision may be adopted for use by electric distribution cooperatives subject to the jurisdiction of the Commission. The method for use by electric distribution cooperatives in compensating for change in the cost of purchased power is as follows:

(1) Each electric distribution cooperative having an approved purchased power adjustment clause in its tariffs designed to compensate for any variation in the cost of purchased power above or below the base costs upon which the tariffs are based, by adjusting the charges, either upward or downward per kWh, billed under its tariffs, agreements, and special contracts

approved by the Commission, shall employ the following formula to compensate for such variation:  $P.A. = (A)$ , where:

(A) P.A. = Power cost adjustment per kWh to be made, and

(B) A = the amount in cents or fraction thereof by which the average cost of power per kWh paid to suppliers of power by the cooperative exceeds or is less than the cost of power per kWh used in the tariffs as the cost of power on which the rate was based. Any credits, refunds, or allowances on previously purchased power by the cooperative from any suppliers shall be deducted from the cost of purchased power before calculating "A" each month.

(2) The Commission shall include in a purchased power adjustment clause an allowance for line losses if a preponderance of evidence points to the probable conclusion that failure to do so will result in less than a reasonable rate of return for the cooperative. When line losses are included in the purchased power adjustment charge, the following formula shall be used:  $P.A. = A \div (1-B)$ , where:

(A) P.A. and A have the same meaning as in the formula in (a)(1) of this Section.

(B) B = The actual percentage of power losses expressed decimally.

(C) This power loss will be computed monthly based on the following formula:

(i) X = The total purchases in the twelve (12) month period ending one (1) month prior to the sales period.

(ii) Y = The total sales for the preceding twelve (12) month period.

(D) Then:  $B = (X - Y) \div X$

(3) Each electric distribution cooperative shall submit the following to PUD, and other parties as directed by a Commission Order or tariff, on a monthly basis:

(A) The purchased power adjustment clause, including the factors enumerated in (2) above;

(B) A rolling twelve (12) month average line loss schedule.

(4) Each electric distribution cooperative shall file annually each calendar year a five (5) year analysis of the line loss by month with the purchased power adjustment clause that coincides with the filing of the annual Rural Utility Service (RUS) Form 7.

(5) Line losses will be evaluated for reasonableness on a case-by-case basis.

(b) Variations from the standard provisions set forth in this Section must be sought pursuant to applications for permission to use such clauses, to be filed pursuant to 165:50-7-1.

[Source: Amended at 12 Ok Reg 2139, eff 7-1-95; Amended at 36 Ok Reg 706, eff 7-25-19]

## **SUBCHAPTER 5. REQUIREMENTS AND PROCEDURES RELATING TO ADJUSTMENT CLAUSES EMPLOYED BY PUBLIC UTILITIES**

### Section

- 165:50-5-1. Authorization for use of adjustment clauses
- 165:50-5-2. Monthly adjustments with respect to any approved fuel adjustment clause
- 165:50-5-3. Monitoring of fuel adjustment clauses
- 165:50-5-4. Disclosure in customer bills
- 165:50-5-5. Report of fuel adjustment clauses by electric generation cooperatives
- 165:50-5-6. Inapplicability of certain rules to electric distribution cooperatives



## 165:50-5-7. Periodic rate investigations

**165:50-5-1. Authorization for use of adjustment clauses**

(a) If upon application by any public utility, after investigations and public hearing, the Commission finds that the changes in the price of fuels required for the generation of electricity by any electric public utility, the changes in the price of purchased electricity required for distribution by any public utility, or the changes in the price of purchased gas required for distribution by any gas utility portends a likely and substantial threat to the ability of the utility to earn a reasonable rate of return, or are likely to cause the utility to have an excessive rate of return, or are likely to substantially impair the ability of the utility to acquire adequate supplies of fuel or gas, the Commission may approve suitable fuel adjustment clauses to be superimposed upon the existing rate schedules of the public utility. The Commission shall design the fuel adjustment clause to allow the electric or gas public utility to increase or decrease charges to the consumer according to changes in the cost of fuel, purchased power, or purchased gas as compared to the price of such fuels or power as reflected in the base rates.

(b) Insofar as feasible, the standard fuel and purchased gas adjustment provision adopted pursuant to 165:50-3-2, shall be employed by public utilities subject to the jurisdiction of the Commission. However, each public utility which applies, pursuant to (a) of this Section, for authorization to employ fuel, purchased gas, and/or purchased power adjustment clauses shall be entitled to show that by reason of special circumstances affecting such utility, the standard provisions or portions thereof are not appropriate for use by it; in such case the Commission shall prescribe an appropriate clause for such utility, which clause shall, however, conform to the requirements of 165:50-3-1.

(c) Notice of hearings held pursuant to (a) of this Section shall be given in the form and manner prescribed by the Commission

[Source: Amended at 10 Ok Reg 2647, eff 6-25-93]

**165:50-5-2. Monthly adjustments with respect to any approved fuel adjustment clause**

(a) No proposed monthly fuel adjustment, purchased power adjustment, or purchased gas adjustment by any public utility shall become effective until after the Commission has had an opportunity, as provided in (c) of this Section, to determine that the adjustment is calculated in accordance with the terms and conditions of the applicable fuel adjustment clause.

(b) Prior to the effectiveness of any monthly fuel, purchased gas, or purchased power adjustment proposed by a public utility, such utility shall file with the Commission, by submitting the following to PUD and other parties as directed by a Commission Order or tariff:

- (1) A statement of the items and costs making up the average cost of fuel per million Btu and associated costs in dollars and cents or fraction thereof.
- (2) A summary of its fuel and gas purchase invoices and its computations of the proposed monthly fuel adjustment or purchased gas adjustment charges.
- (3) A summary of inventory records of fuel and gas going into and taken out of stockpile or storage.

- (4) A report containing the average unit price, the change in the average unit price, the volume purchased, and a brief explanation of such unit cost increase.
- (5) Any other records which PUD may request, including, but not limited to, the heat rate efficiency and delivery efficiency for affected electric public utilities and the actual capacity factor for each generating facility utilized to produce electric power.
- (c) The records and computations submitted pursuant to (b) of this Section shall be open to public inspection at the Commission.
- (d) PUD or any other affected party shall have five (5) business days after the records and computations prescribed in (b) of this Section have been submitted to request a hearing thereon. If a hearing is not requested, the proposed adjustment charge shall become effective as submitted. In the event PUD or an affected party requests a hearing, and the Commission decides to hold a hearing on the information submitted, it shall notify the public utility within such five (5) business day period, set the matter for a public hearing to commence within thirty (30) calendar days thereafter, and give notice thereof at least three (3) business days prior to the commencement of such hearing by publication in a newspaper of general circulation in the area served by such utility. The issue to be determined at such hearing shall be either or both of the following determinations
- (1) Whether charges or credits made under the fuel adjustment clauses are based upon the actual prices paid for fuel, purchased gas, or purchased power and are properly computed in accordance with the applicable adjustment clause.
  - (2) Whether the fuel adjustment clauses should be discontinued, amended, or suspended.
- (e) In the event that the Commission determines that it is necessary to set any proposed adjustment charge for hearing, the proposed charge shall nevertheless become effective at the option of the utility following the expiration of the five (5) business day period after its records and computations have been submitted, pending the Commission's finding with respect to such charges. However, in the discretion of the Commission, the effectiveness of the proposed charge may be conditioned upon the submission by the utility with the Commission of an assurance satisfactory to the Commission, which may include a bond with surety of the utility's ability and willingness to refund to its customers any such amounts as the utility may collect from them in excess of the charge approved by the Commission in its finding. If the Commission has not approved, in whole or in part, or denied the proposed charge within seven (7) business days subsequent to the commencement of such hearing, it shall promptly submit a written explanation of its failure to do so to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Office of the Governor.

[Source: Amended at 10 Ok Reg 2647, eff 6-25-93, Amended at 16 Ok Reg 2260, eff 7-1-99; Amended at 36 Ok Reg 707, eff 7-25-19]

<sup>1</sup>Editor's Note: In the initial codification of this agency's rules (12-31-91), two Sections were misnumbered as 165:50-5-2. The number of the second Section, which is located in Chapter 60, was later changed to 165:60-5-2.

### **165:50-5-3. Monitoring of fuel adjustment clauses**

The Commission shall continually monitor and oversee the application of all fuel adjustment clauses. A general public hearing relating to the fuel, purchased gas, and purchased power

adjustment clauses of all public utilities shall be held whenever the Commission deems it necessary, but no less frequently than once every twelve (12) months. The following procedure shall be followed with respect to such hearings:

(1) Upon application by PUD, an order shall be entered setting a hearing date, and notice shall be given in the form and manner prescribed by the Commission in such order.

(2) PUD, or any other person or entity objecting to the operation of a utility's fuel, purchased gas, or purchased power adjustment clause, shall, at or before such general hearing, file with the Commission a complaint in writing setting forth the reasons for such objection. Thereafter, a separate proceeding involving such utility shall be conducted, in accordance with the Commission's Rules of Practice [OAC 165:5].

(A) If no complaint is filed before or at such general hearing with respect to the operation of the fuel, purchased gas, or purchased power adjustment clauses of a utility, no further proceedings shall be had thereon.

(B) If a complaint is filed, the Commission shall at the general hearing set a date for a further hearing with respect to each utility against which a complaint has been filed. The issues to be determined at such further hearing shall be one or more of the following determinations:

(i) Whether the charges or credits are based upon the actual prices paid for fuel, purchased power, or purchased gas.

(ii) Whether the charges or credits are properly computed in accordance with the applicable fuel adjustment clause.

(iii) Whether the fuel adjustment clause should be amended, discontinued, or suspended because of a change in circumstances since the fuel adjustment clause was approved.

(3) If the Commission finds that the charges or credits are not based upon the actual prices paid for fuel, purchased gas, or purchased power or are not properly computed in accordance with the applicable adjustment clause, it shall recompute the charges or credits and shall direct the public utility to take such action as may be required to insure that the charges or credits properly reflect the actual prices paid for fuel, purchased gas, or purchased power and are properly computed in accordance with the applicable adjustment clause for the applicable period.

[Source: Amended at 10 Ok Reg 2647, eff 6-25-93; Amended at 36 Ok Reg 707, eff 7-25-19]

#### **165:50-5-4. Disclosure in customer bills**

Each public utility subject to a fuel adjustment clause shall separately disclose in its customer bills the per unit cost of its fuel, purchased power, or purchased gas adjustment. Upon request by any individual consumer, such utility shall also disclose for the month for which the request is received:

(1) The actual amount of the adjustment in dollars and cents.

(2) The per unit rate and amount thereof in dollars and cents of fuel, purchased power, or purchased gas included in its basic rate.

**165:50-5-5. Report of fuel adjustment clauses by the electric generation cooperatives**

(a) Electric generation cooperatives which determine to utilize a fuel adjustment clause shall report such fuel adjustment clause to the Commission. Such cooperatives shall file monthly with PUD and other parties as directed by Commission Order or tariff by submitting the following:

- (1) A report of adjustments charged or credited to its wholesale electric customers on its current monthly billing.
- (2) A statement of the items and costs making up the average cost of fuel per million Btu and associated costs in dollars and cents or fraction thereof.
- (3) A summary of its fuel and gas purchase invoices and its computation of the proposed monthly fuel adjustment charges.
- (4) A summary of inventory records of fuel going into and taken out of stockpile or storage.
- (5) A report containing the average unit price, the change in the average unit price, the volume purchased, and a brief explanation of any change in such unit cost.
- (6) Any other records pertaining to fuel adjustment charges deemed necessary by the Commission including, but not limited to, the heat rate efficiency and delivery efficiency for affected electric generating cooperatives and the actual capacity factor for each generating facility utilized to produce electric power.

(b) The records and computations provided for in this Chapter shall be open to public inspection at the office of the Commission.

[Source: Amended at 16 Ok Reg 2260, eff 7-1-99; Amended at 36 Ok Reg 708, eff 7-25-19]

**165:50-5-6. Inapplicability of certain rules to electric distribution cooperatives**

Sections 165:50-3-1, 165:50-3-2, and 165:50-5-1 through 165:50-5-5 in this Chapter shall be inapplicable to electric distribution cooperatives, except as provided in this Chapter.

[Source: Amended at 16 Ok Reg 2260, eff 7-1-99; Amended at 36 Ok Reg 708, eff 7-25-19]

**165:50-5-7. Periodic rate investigations**

The rates charged to their customers by public utilities and electric distribution cooperatives which utilize fuel, purchased gas, or purchased power adjustment clauses shall be periodically investigated by the Commission in order to determine whether such rates are just and reasonable. In conducting such investigations, the following procedures shall be followed:

- (1) Except in those cases described in (3) of this Section, such proceedings by the Commission shall be commenced by application made by the Commission staff or by order of the Commission.
- (2) Such proceedings shall include public hearings.
- (3) A general rate proceeding instituted by a public utility or cooperative shall be deemed to constitute a rate investigation hereunder.
- (4) In such rate investigations or proceedings, income, expenses and investments of affiliated persons, subsidiaries, firms, or corporations and emergency and off-system sales of electricity

or gas shall be given appropriate consideration by the Commission in determining the financial requirements of the utility or cooperative.

[Source: Amended at 10 Ok Reg 2647, eff 6-25-93; Amended at 12 Ok Reg 2139, eff 7-1-95]

## **SUBCHAPTER 7. PURCHASED POWER ADJUSTMENT CLAUSES FOR ELECTRIC DISTRIBUTION COOPERATIVES**

### Section

- 165:50-7-1. Approval of purchased power adjustment clauses
- 165:50-7-2. Monitoring of application of adjustment clauses
- 165:50-7-3. Disclosure of per unit rate in consumer's bill
- 165:50-7-4. Applications through a common representative

#### **165:50-7-1. Approval of purchased power adjustment clauses**

- (a) No purchased power adjustment clause of any kind shall apply nor be used in computing bills for retail electric service which has not been first approved by the Commission.
- (b) If the Commission finds that the changed price of purchased wholesale power required for distribution by any electric distribution cooperative threatens the ability of the cooperative to earn a reasonable rate of return, the Commission may, after investigation and public hearing, approve a suitable purchased power adjustment clause to be superimposed upon the existing retail electric rate schedule of the cooperative and designed only to recapture such increased cost of wholesale power.
- (c) The Commission shall design the purchased power adjustment clause to allow the electric distribution cooperative to increase or decrease its charges for retail electric service as provided in its approved electric rates only for the changes in the cost of purchased power when the price of such purchased power differs from the price which is reflected in its basic approved retail rates. It shall include in a purchased power adjustment clause an allowance for line losses if a preponderance of evidence points to the probable conclusion that failure to do so will result in less than a reasonable rate of return for the cooperative.

#### **165:50-7-2. Monitoring of application of adjustment clauses**

Whenever the Commission approves a purchased power adjustment clause pursuant to 165:50-3-3 and 165:50-7-1, the clause shall apply to all similar distribution cooperatives affected by such increased cost. In addition, the Commission shall continually monitor and oversee the application of the adjustment clauses. The Commission shall hold a public hearing thereon whenever it deems it necessary, but no less frequently than once every twelve (12) months. The following procedure shall be followed with respect to such hearings:

- (1) Upon application by the Commission staff, an order shall be entered setting a hearing date and notice thereof shall be given in the form and manner prescribed by the Commission in such order.
- (2) The Commission staff, or any other person or entity objecting to the operation of an electric distribution cooperative's purchased power adjustment clause, shall, at or before such general

hearing, file with the Commission a complaint in writing setting forth the reasons for such objection. Thereafter, an appropriate proceeding involving such electric distribution cooperative shall be conducted, in accordance with the Commission's Rules of Practice [OAC 165:5].

(A) If no complaint is filed before or at such general hearing with respect to the operation of the purchased power adjustment clause of an electric distribution cooperative, no further proceeding shall be had thereon.

(B) If a complaint is filed, the Commission shall at the general hearing set an appropriate time for the complaint to be heard, and the issues to be determined at such hearing shall be one or more of the following determinations:

(i) Whether the charges or credits made under the adjustment clauses are based upon the actual prices paid for purchased power.

(ii) Whether the charges or credits are properly computed in accordance with the applicable adjustment clause.

(iii) Whether that portion representing fuel adjustment charges made by an electric generation cooperative are fair, equitable, and properly computed.

(iv) Whether the purchased power adjustment clause should be amended, suspended, or discontinued because of a change in circumstances since the purchased power adjustment clause was approved.

(3) If the Commission finds that the charges or credits are not based upon the actual prices paid for purchased power or are not properly computed in accordance with the applicable adjustment clause, it shall re-compute the charges or credits and shall direct the electric distribution cooperative to take such action as may be required to insure that the charges or credits properly reflect the actual price paid for purchased power and are properly computed in accordance with the applicable adjustment clause for the applicable period.

[Source: Amended at 12 Ok Reg 2139, eff 7-1-95; Amended at 36 Ok Reg 708, eff 7-25-19]

<sup>1</sup>**Editor's Note:** In the initial codification of this agency's rules (12-31-91), this Section was misnumbered as 165:60-7-2. Upon discovery of this error, the number was changed to 165:50-7-2.

### **165:50-7-3. Disclosure of per unit rate in consumer's bill**

Each electric distribution cooperative applying a purchased power adjustment charge in its bills shall separately disclose the per unit rate of the purchased power adjustment charge. Upon request by any individual consumer, such cooperative shall also disclose for the month for which the request is received:

(1) The dollars and cents of the purchased power adjustment charge.

(2) The base cost of purchased power included in the retail rate.

### **165:50-7-4. Applications through a common representative**

Nothing in this Chapter shall prevent similarly situated electric distribution cooperatives from making, or the Commission from accepting, filings and applications as shall be required simultaneously and through a common representative.